690-600

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Civilian Personnel

Equal Employment Opportunity Discrimination Complaints

Summary. This regulation sets policies and procedures on filing, processing, investigating, and settling complaints of discrimination. It is designed for commanders, equal employment opportunity officials, U.S. Army Civilian Appellate Review Agency investigators, civilian personnel officers, labor counselors, managers, supervisors, employees, and applicants for employment. It implements Federal law and the regulations of the Equal Employment Opportunity Commission that prohibit discrimination based on race, color, religion, sex, national origin, age, physical or mental handicaps, and/or reprisal.

Applicability. This regulation applies to all Department of the Army appropriated or nonappropriated fund activities, their employees, and applicants for employment. This regulation also applies to employees from other Federal agencies receiving Army support under a servicing agreement who allege discrimination in a matter controlled by the Army. It does not apply to persons employed or applying for positions in the Army and Air Force Exchange System. It also does not apply to non-United States citizens employed by the Army outside of the United States.

Impact on New Manning System. This regulation does not contain information that affects the New Manning System.

Internal control systems. This regulation is subject to the requirements of AR 11-2. It contains internal control provisions but does not contain checklists for conducting internal control reviews. These checklists are being developed and will be published at a later date.

Supplementation. Supplementation of this regulation and establishment of forms other than DA forms are prohibited, without prior approval from OSA, WASH DC 20310-1801.

Interim changes. Interim changes to this regulation are not official unless they are authenticated by The Adjutant General. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

Suggested improvements. The proponent agency of this regulation is the Office of the Secretary of the Army. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to EEOCCRA, ATTN: SFCR, WASH, DC 20310-1813.

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*This regulation supersedes CPR 700.713, appendix B, 27 June 1973.

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Chapter 1
General Provisions

1-1. Purpose

This regulation prescribes policies and procedures for filing, processing, investigating, and settling Equal Employment Opportunity (EEO) complaints. The processing of all EEO complaints filed by civilian Army employees or applicants for employment will be governed by this regulation. This regulation will be revised to reflect changes made by the EEOC in its regulations and/or through the issuance of new or revised directives.

1-2. Prescribed forms

a. DA Form 2590-R, Formal Complaint of Discrimination. (Cited in paras 2-3*b*, 2-3*c*(4), and 8-8*b*(1).)

b. DA Form 5492-R, Precomplaint Counseling Data Sheet. (Cited in paras 2-2*d*(3) and 8-8*a*.)

c. DA Form 5493-R, Individual Complaint Data Sheet. (Cited in paras 2-2*d*(3) and 8-7.)

d. DA Form 5494-R, Class Complaint Data Sheet. (Cited in para 8-7.)

e. DA Form 5495-R, Chronology of Individual EEO Complaint. (Cited in para 8-7.)

f. DA Form 5496-R, Chronology of Class EEO Complaint. (Cited in para 8-7.)

g. DA Form 5497-R, Disposition of Complaint of Discrimination. (Cited in paras 8-7 and 8-9.)

1-3. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are explained in the glossary.

1-4. Responsibilities

a. The Army Director of Equal Employment Opportunity, referred to in 29 CFR Section 1613.204, will be designated by the Secretary of the Army to set EEO policy. This individual will ensure that—

(1) Army programs conform to this policy.

(2) Adequate resources are available to implement the Armys EEO Program.

(3) A system to process EEO complaints exists.

(4) Final Department of the Army decisions on EEO complaints are rendered.

b. The Director of the Equal Employment Opportunity Compliance and Complaints Review Agency (EEOCCRA) will—

(1) Develop Army policy and programs to process discrimination complaints.

(2) Manage and operate the Army discrimination complaint system for individual and class complaints from Army civilian employees and applicants.

(3) Process and prepare final Army decisions on individual and class complaints of discrimination for approval by the Secretary of the Army or his or her designee.

(4) Process requests from the EEOC for case files on complaints that are appealed to EEOC.

(5) Receive and implement appellate decisions rendered by EEOC and process requests for reopening and reconsidering EEOC decisions.

(6) Provide guidance to subordinate Army activities on the discrimination complaint system.

(7) Answer inquiries from complainants, Congress, and Army activities.

c. The Administrator of the U.S. Army Civilian Appellate Review Agency (USACARA) will—

(1) Conduct investigations of civilian employee complaints of discrimination.

(2) Prepare reports of findings including recommendations on corrective actions to be taken by the activity.

d. The Civilian Personnel Officer (CPO) will—

(1) Ensure that EEO officers, EEO counselors, and investigators are given appropriate access to personnel records and copies of records relevant to the complaint without an inordinate invasion of privacy.

(2) Perform personnel regulatory reviews and technical support to labor counselors, EEO counselors, and EEO officers.

e. The Activity Commander responsible for the discrimination complaint program for all serviced and tenant organizations will—

(1) Ensure that sufficient resources are available to EEO program officials to manage and operate the discrimination complaint program effectively.

(2) Ensure that supervisors and managers understand and meet their responsibilities in the discrimination complaint program.

(3) Stress the need for prompt processing and informal resolution of discrimination complaints.

(4) Ensure that management is adequately represented at all steps in the complaint procedure where representation is authorized.

(5) Make timely recommendations and decisions on complaints of discrimination and awards of attorney fees.

(6) Ensure that Army and EEOC decisions are implemented promptly.

(7) Ensure that the following information is regularly publicized and permanently posted on official bulletin boards, with easy access to all employees and to applicants for employment with the Army:

(*a*) The name and address of the Army Director of Equal Employment Opportunity.

(*b*) The names, addresses, and telephone num-

bers of the activity EEO officials. including the EEO officer and EEO counselors.

(*c*) Where applicable, a list of the organizations each counselor services.

(*d*) A statement that a counselor must be consulted before a formal discrimination complaint is filed under this regulation. (Where applicable, employees should also be advised that discrimination may be grieved under the negotiated grievance procedure or through Merit Systems Protection Board (MSPB) appellate procedures.)

(*e*) The time limits to start action and to file and process a complaint under this regulation. When applicable, employees should also be advised of time limits for filing allegations of discrimination under the negotiated grievance procedure or MSPB appellate procedures.

f. The major Army command (MACOM) EEO officer will—

(1) Advise the MACOM commander on the resources required in the command to manage the discrimination complaint program effectively.

(2) Ensure that the EEO complaint processing program is operated effectively and efficiently throughout the MACOM.

(3) Ensure that reports and files are submitted accurately and promptly.

(4) Make on-site evaluations of activity level effectiveness and give staff assistance as needed.

(5) Ensure that all time limits set forth in this regulation are met.

g. The activity EEO officer will—

(1) Manage the activity complaint processing program and advise the Activity Commander on EEO matters that require his or her attention.

(2) Advise the Activity Commander to ensure that adequate resources are available in the activity to manage the complaint program effectively.

(3) Recommend the availability of adequate EEO counselors to provide effective counseling services. As a guide, there should be one counselor for about every 500 serviced employees. This ratio may vary depending on local need.

(4) Supervise EEO counselors to ensure that they perform effectively and are trained in all phases of complaint processing. Refer or assign EEO counselors for precomplaint counseling.

(5) Ensure that counselors and investigators are given administrative and logistical support, including appropriate access to personnel records and copies of records relevant to the complaint, without an unwarranted invasion of privacy.

(6) Make the final decision on behalf of the Secretary of the Army to reject, in whole or in part, individual complaints at the activity; also accepts complaints provisionally subject to final decision by the Secretary of the Army or his or her designee.

(7) Ensure that complaints are processed promptly and that all requirements for precomplaint counseling and for processing complaints of discrimination are met.

(8) Ensure that every reasonable effort is made to reach an informal resolution of the complaint. He or she will advise the Activity Commander on proposed dispositions.

(9) Arrange for USACARA investigations, EEOC hearings and provide for court reporters, making sure that the EEOC complaints examiner is correctly advised to direct his or her report ot EEOCCRA and that the correct number of transcripts are ordered.

(10) Ensure that all copies of case files misdirected to the installation by complaints examiners are returned to the complaints examiner with instructions to send the files to EEOCCRA.

(11) Send legible copies of complaint files to EEOCCRA as fast as possible.

(12) Prepare and submit the required reports.

(13) Maintain and safeguard complaint files.

h. The EEO counselor will—

(1) Advise complainants and management officials of their rights, inquire into allegations of discrimination raised under this regulation, and try to resolve discrimination complaints at the precomplaint stage.

(2) Keep records indicating when the aggrieved person first contacted the counselor. These records will document the inquiry methods used to reach a solution and the result of the inquiry. Such records will provide specific facts to be included in the counselor's written report to the EEO officer upon completion of counseling.

i. The servicing legal officer/Staff Judge Advocate (SJA) will—

(1) Provide legal advice on EEO matters to the Activity Commander, the CPO, and EEO officials.

(2) Act as the Army's activity-level legal representative in hearings on individual complaints and in class action proceedings.

(3) Review for legal sufficiency, as requested, proposed informal adjustments or settlement agreements, proposed disposition letters, and final decision letters.

(4) Advise the Activity Commander regarding settling claims of attorney fees and costs. The counselor will forward with analysis and recommendations to the Department of the Army (DA), through the Labor and Civilian Personnel Law Office (DAJA-LC), Office of the Judge Advocate General, for final decision, all claims for attorney fees and/or

costs that are not settled at the activity level. (See para 5–4.)

j. Managers and supervisors will act promptly to prevent or correct situations that may give rise to complaints of discrimination. All members of the work force will refrain from actions or comments that might be viewed as discriminatory. Supervisors will allow employees with collateral EEO duties enough duty time to perform their EEO functions. They will also ensure that, at the precomplaint and the formal stages of the complaint, complainants and their representatives are allowed to use a reasonable amount of duty time to work on their complaints. Managers, supervisors, and employees must cooperate fully with counselors, EEO officers, investigators, and examiners.

1–5. Authority

This regulation implements the directives of the Equal Employment Opportunity Commission which is charged by statute with the enforcement of equal employment opportunity in the Federal Government. Discrimination complaints filed under this regulation are processed under the guidance of EEOC regulations contained in section 1613 of title 29, Code of Federal Regulations (29 CFR 1613). This regulation will be revised to reflect changes in EEOC directives and regulations.

1–6. Policy statements

a. Persons who take part in presenting or processing discrimination complaints will be free from restraint, interference, coercion, harassment, discrimination, and reprisal.

b. A discrimination complaint will be processed with due regard for the rights of persons against whom allegations have been made.

c. Complaints will be processed promptly and impartially.

d. Complaints should be resolved at the earliest possible stage; informal resolution can occur at any stage of processing. Early resolution of complaints achieves better employee relations, cuts administrative costs, and is consistent with the Army's commitment to equal employment opportunity.

e. This regulation does not affect the rights granted unions that have exclusive recognition in the Army. Further, this regulation is not intended to affect the rights of an employee represented by such a union from exercising the option to file—

(1) A discrimination complaint under this regulation.

(2) A grievance under a negotiated procedure.

(3) An appeal under the appellate provisions of the MSPB regulations.

f. Sufficient resources, in terms of personnel and funds, will be made available at all levels of command to assure the success of the Army's Equal Employment Opportunity Program.

g. Suspenses imposed by this regulation are purely administrative and were established by the EEOC and the Army. They are designed to encourage prompt resolution of complaints. Failure to meet such a suspense will not nullify any administrative proceeding. All "days" referred to in this regulation are calendar days.

1–7. EEO counselor training

All EEO counselors will be given the required training as soon as possible after their appointment, within time limits set by the major command. Training will at least include completion of the basic EEO counseling course given by regional offices of the Office of Personnel Management or any comparable course, and courses in EEO and civilian personnel management, as appropriate. Additional and refresher training will be determined by command policy. All Army training should stress the Army policy to seek informal resolution at the earliest possible stage of a complaint.

1–8. Venue

EEO complaints will generally be processed at the activity where the alleged discrimination occurred. The complaint may be processed at a different location designated by the MACOM EEO officer if processing is impractical at the activity where the alleged discrimination occurred. (See paras 1–9 and 7–10.)

1–9. Complaints involving the Secretary of the Army or officials of the Office of the Secretary of the Army

a. Precomplaint counseling that involves officials at the Secretary of the Army level will be coordinated with the EEO officer, Office of the Secretary of the Army, regardless of where in the Army the counseling may arise. The EEO officer at the activity where the aggrieved person is employed or has applied for employment will be responsible for ensuring that local counseling is conducted in accord with paragraphs 2–2 or 3–2. The coordination will be accomplished before the activity EEO counselor conducts the final interview. Coordination may be on an informal basis using the most expeditious means of communication.

b. Formal complaints that involve actions taken by the Secretary of the Army or an official of the Office of the Secretary of the Army will be forwarded for acceptance and processing to the EEO officer, Office

of the Secretary of the Army, regardless of where in the Army they arise. The activity EEO officer will issue a letter to the complainant acknowledging receipt of the complaint and informing the complainant of the referral to the Office of the Secretary of the Army. The letter must state that such acknowledgment does not constitute acceptance of the complaint. The activity EEO officer must forward to the EEO officer, Office of the Secretary of the Army, the following documents:

(1) The complaint.

(2) A copy of the acknowledgment of receipt.

(3) A recommendation as to the acceptance or rejection of the complaint, along with an analysis in support of the recommendation.

(4) A copy of the EEO counselor's report.

1–10. Complaints involving the Chief of Staff, Army; MACOM commanders; officials of the Army Staff; and its Staff support or field operating agencies

a. Precomplaint counseling that involves the Chief of Staff, Army; MACOM commanders; officials of the Army Staff; or its Staff support and field operating agencies (unless these activities have been designated to be serviced by an EEO officer other than the EEO officer for the Military District of Washington (MDW)), will be coordinated with the EEO officer for MDW regardless of where in the Army the counseling may arise. The EEO officer at the activity where the aggrieved person is employed, or has applied for employment, will be responsible for ensuring that local counseling is conducted in accord with paragraphs 2–2 or 3–2, and that the required coordination is accomplished before the activity EEO counselor conducts the final interview. Coordination may be on an informal basis using the most expeditious means of communication.

b. Formal complaints that involve actions actually taken by the Chief of Staff, Army; MACOM commanders; officials of the Army Staff; or its Staff support and field operating agencies (unless these activities have been designated to be serviced by an EEO officer other than the MDW EEO officer), regardless of where in the Army the counseling may arise. The letter must state that such acknowledgment does not constitute acceptance of the complaint. The activity EEO officer must forward to the EEO officer, MDW, the following documents:

(1) The complaint.

(2) A copy of the acknowledgment of receipt.

(3) A recommendation as to the acceptance or rejection of the complaint, along with an analysis in support of the recommendation.

(4) A copy of the EEO counselor's report.

1–11. Complaints involving the U.S. Army Civilian Personnel Center (CIVPERCEN)

a. The Chief, CIVPERCEN will render the proposed disposition if a complaint challenges all of the following:

(1) The rating, ranking, and referral process at the Army-wide referral level.

(2) Actions taken by DA Career Program administrators and/or Career Program screening panels.

(3) The complainant was not included on the referral list.

b. The Activity Commander responsible for the nonselection will render the proposed disposition if a complaint challenges all of the following:

(1) The rating, ranking, and referral process at the Army-wide referral level.

(2) Actions taken by DA Career Program administrators and or Career Program screening panels.

(3) The complainant was included on the referral list but not selected.

c. Pertinent information will be provided by CIVPERCEN or other DA level referral offices, as appropriate, to include in the Activity Commander's proposed disposition.

Chapter 2
Individual Complaints of Discrimination

2–1. Who may file a complaint

Any employee, former employee, or applicant for employment covered by this regulation, who believes he or she has been discriminated against because of race, color, religion, sex, national origin, physical or mental handicap, age, and/or reprisal in an employment matter subject to the control of the Army, may file an individual complaint of discrimination. The complaint may also be filed for the complainant, by a representative designated in writing by the complainant. (The summarized, step-by-step complaint procedure at table 2–1 and the flow chart at fig 2–1 may be reproduced locally and given to the complainant.)

2–2. Precomplaint processing

a. Before a formal complaint can be filed, the complainant must first present the matter to an EEO counselor for inquiry within 30 calendar days from the date of the alleged discriminatory event, the effective date of a personnel action, or the date that the aggrieved person became aware or reasonably should have become aware, of the discriminatory event or personnel action. Matters raised after the 30-day time limit will be counseled by the EEO counselor even though a formal complaint may later be rejected for untimeliness.

b. At the initial interview, the EEO counselor will inform the aggrieved person of the following matters:

(1) The aggrieved person may be accompanied, represented, and advised at all counseling interviews by a representative designated in writing in accord with paragraph 8–2.

(2) The aggrieved person will waive the right to file a formal complaint under this regulation and its procedures if he or she files or has already filed a grievance on the same allegations of discrimination under a negotiated grievance procedure or an appeal with the MSPB. The counselor will give the aggrieved person a handout similar to that contained at figure 2–2 which informs the individual of the other procedures available for filing allegations of discrimination. If the aggrieved person has already filed an appeal with the MSPB or a written grievance under a negotiated procedure on the same issue, the EEO officer will reject a formal complaint under this regulation.

(3) The counselor will not reveal the aggrieved person's identity to anyone unless the aggrieved person gives written permission or a formal complaint is accepted.

(4) The counselor will define and record the dates and facts of the specific incidents or personnel actions that are the basis of the discrimination complaint. The aggrieved person must cooperate with the counselor in clearly defining issues for investigation.

(5) If the aggrieved person believes that a particular person discriminated against him or her, then that individual may be indentified as the alleged discriminating official (ADO).

(6) If an EEO counselor has filed a discrimination complaint individually or as a class agent then, at the discretion of the activity EEO officer, he or she may be precluded from counseling any other person concerning a complaint until that counselor's complaint is resolved by a final Army decision and all appeals have been exhausted. An activity EEO officer may preclude an EEO counselor from counseling based on actual or perceived conflict of interest.

c. The EEO counselor's duties during inquiry are as follows:

(1) The counselor will inquire into the specific incidents and actions identified by the aggrieved person at the initial interview. The counselor should interview persons who can give direct information on the allegations. If the aggrieved person has named an ADO or an ADO is otherwise identified, the counselor must interview that person unless the counselor has information that clears the ADO from any alleged discrimination to the satisfaction of the aggrieved person. Before any interview with an ADO, the counselor must advise that individual of his or her rights and the nature of the accusations in accord with paragraph 7–2.

(2) The counselor's inquiry should be designed to obtain only that information necessary to reach an informal resolution of the aggrieved person's allegations. Usually such inquiries are to be completed within a matter of days. The inquiry should not be as extensive as an investigation under paragraph 2–8. The counselor should function as a mediator between the aggrieved person and management and should seek a resonable informal resolution.

(3) The counselor should prepare a written report of all actions taken during the inquiry and of the advice, if any, given to the aggrieved person and the activity.

d. The EEO counselor's duties at the final interview are as follows:

(1) The counselor should conduct the final interview with the aggrieved person within 21 days after the matter was first called to the counselor's attention, absent extraordinary circumstances that must be documented by the counselor. At that time, the

counselor will tell the aggrieved person of the results of the inquiry and discuss proposed solutions. Upon completion of the final interview, the counselor will—

(*a*) Inform the aggrieved person, in writing, of the right to file a formal complaint within the next 15 calendar days. This formal notice should be given to the aggrieved person by the use of the sample letter at figure 2-3. The counselor must not try to influence the aggrieved person on whether or not to file a formal complaint and must emphasize that the decision to file rests solely with the aggrieved person.

(*b*) Stress that a formal complaint must give specific information on the alleged acts of discrimination and must be limited to the issues discussed with the counselor in the precomplaint procedure. A formal complaint that is not specific or does not define the issues will be returned for clarification and canceled if not properly defined.

(*c*) Inform the aggrieved person that he or she must inform the EEO officer immediately in writing if legal counsel or any other representative is retained for a formal complaint. (See para 8-2.)

(2) If the final interview is not held within 21 calendar days of initial contact with the EEO counselor and if the matter has not previously been resolved to the satisfaction of the aggrieved person, the counselor will inform the aggrieved person in writing, on the 21st day, of the right to file a formal complaint of discrimination. (See fig 2-4.) The counselor must not try to influence the aggrieved person on whether or not to file a formal complaint and must emphasize that the decision to file rests solely with the aggrieved person.

(3) Upon completion of counseling, the counselor will prepare a written report of all actions taken during the inquiry, and of the advice, if any, given to the aggrieved person and to management. The counselor will provide this report to the EEO officer along with a copy of the 21-day letter, if issued, and a copy of the written Notice of Final Interview. The EEO counselor will also complete DA Form 5492-R (Precomplaint Counseling Data Sheet) and appropriate portions of DA Form 5493-R (Individual Complaint Data Sheet). The DA Form 5492-R will be prepared for each reportable contact at the time the Notice of Final Interview is issued. These documents will be submitted to the EEO officer along with his or her report. DA Form 5492-R and DA Form 5493-R will be reproduced locally on 8½- by 11-inch paper. These forms are located at the back of this regulation.

e. All Army personnel will fully cooperate with and support the EEO counselor in the performance of his or her duties under this regulation. The EEO counselor will be free from restraint, interference, harassment, coercion, discrimination, or reprisal in connection with the performance of his or her duties.

2-3. Filing a formal complaint

a. A formal complaint must be filed within 15 calendar days after the date of receipt of the notice of final interview with the EEO counselor. The formal complaint must be filed in writing by the complainant and his or her representative, if any, and must be signed by the complainant. If vague or general allegations are contained in the complaint, the complainant will be given an opportunity to provide specific information that will clearly define the issues. If specific information is not provided, the vague or general allegations of the complaint will be canceled for failure to prosecute.

b. Complaints should be submitted on DA Form 2590-R (Formal Complaint of Discrimination). Complaints submitted in letter form, while not preferred, will be accepted if they meet the other requirements of this regulation. However, in this situation, the EEO officer will complete a DA Form 2590-R and attach it to the letter. DA Form 2590-R will be reproduced locally on 8½- by 11-inch paper. A copy of DA Form 2590-R is located at the back of this regulation.

c. Persons to whom complaints may be submitted are as follows:

(1) A formal complaint may be submitted to the Army officials listed below.

(*a*) Activity EEO officer.

(*b*) Activity Commander.

(*c*) Federal Woman's Program Manager.

(*d*) Director of Equal Employment Opportunity.

(*e*) Secretary of the Army.

(2) All activity publications will request the complainant to submit a copy of his or her complaint to the activity EEO officer regardless with whom it is filed. Anyone other than the activity EEO officer who receives a complaint will immediately transmit the complaint to the activity EEO officer, indicating the date of receipt of the complaint if it is not postmarked. EEO counselors should encourage aggrieved persons to submit their complaints to the activity EEO officer to assure timely processing.

(3) A formal complaint is deemed filed on the date that it is postmarked or, if there is no postmark, on the date it is received by one of the officials listed in *c*(1) above. The activity EEO officer will acknowledge receipt of the formal complaint in writing. (See fig 2-5.)

(4) Upon receipt of the formal complaint, the EEO officer will indicate the MACOM against which

the complaint is filed, code the matters giving rise to the complaint, ensure that DA Form 2590-R is completed, and immediately submit one copy of the completed DA Form 2590-R to EEOCCRA.

2–4. Criteria for acceptance

a. A complaint will be accepted by the EEO officer (subject to final decision by the Secretary of the Army or his or her designee) unless the complaint continues one or more of the following:

(1) Refers to a situation over which the Army has no jurisdiction.

(2) Is not based on the complainant's race, color, religion, sex, age, national origin, physical or mental handicap, and/or reprisal. Complaints of discrimination because of age are accepted only if the complainant was at least 40 years of age when the action complained of occurred.

(3) Sets forth matters identical to those in a previous complaint filed by the same complainant and which has been, or is being, processed.

(4) Sets forth matters identical to those in a grievance filed in writing by the same complainant under a negotiated grievance procedure.

(5) Sets forth matters which also form the basis of an appeal filed before the MSPB by the same complainant.

(6) Is untimely.

(*a*) The matters in a complaint must have been brought to the attention of an EEO counselor within 30 calendar days after the incident, effective date of a personnel action, or the date the aggrieved person became aware or reasonably should have been aware, of the discriminatory event or personnel action.

(*b*) Formal complaints must be filed within 15 calendar days after receipt of the Notice of Final Interview.

(*c*) The Activity Commander or his or her EEO officer will waive the time limits of this paragraph if the complainant can show either—

(1) That he or she was not notified of the time limits and was not otherwise aware of them.

(2) That he or she was prevented by circumstances beyond his or her control from submitting the matter within the time limits of this paragraph.

(*d*) The time limits of this paragraph may be waived for reasons deemed sufficient at the discretion of the Activity Commander or his or her designee.

(*e*) The letter accepting the complaint will state the specific basis for any waiver of time limits.

b. The Secretary of the Army or his or her designee reserves the right to reject a complaint previously accepted by an EEO officer when making the final Army decision on the basis of one or more of the grounds specified in *a* above.

2–5. Acceptance and rejection of formal complaints

a. As soon as the EEO officer accepts a formal complaint, he or she will give a copy of the EEO counselor's written report on the precomplaint counseling to the complainant. The original report will be kept in the complaint file.

b. The EEO officer will review the complaint against the criteria of paragraph 2–4 and determine which allegations should be accepted or rejected. The EEO officer will ensure that the complainant was informally counseled on each matter accepted in the formal complaint.

(1) The EEO officer may ask the complainant to give more specifics on allegations or meet with the EEO counselor on a matter not previously discussed in the precomplaint counseling.

(2) The EEO officer may cancel a complaint for failure of the complainant to prosecute his or her complaint if the complainant does not provide the needed information to the EEO officer in the time specified.

c. The EEO officer will decide whether to accept or reject a complaint in whole or in part. When appropriate, the EEO officer will coordinate acceptance or rejection of a complaint with the labor counselor. The acceptance of any complaint shall always be conditioned upon the final decision of the Secretary of the Army or his or her designee in accord with paragraph 2-4*b*.

d. The EEO officer will provide the complainant and his or her representative, if any, a written decision within 5 calendar days after the complaint is received. The decision will be either hand-delivered to the complainant or sent by certified mail. The complainant must acknowledge receipt of the decision in writing. The decision must specify which allegations or parts of a complaint were accepted and explain the grounds for any rejection or cancellation. The decision will also advise the complainant of the right to appeal the rejections or cancellations.

e. If a complaint has been rejected in whole or in part, the EEO officer will process the closure in accord with paragraph 8–9*b*.

The case file will be retained by the EEO officer for 2 years from the date of the final Army decision or until all administrative and judicial appeals are exhausted, whichever is longer.

f. If any part of a complaint is accepted by the EEO officer, a copy of the complaint will be sent directly to the appropriate USACARA Regional Office by the EEO officer requesting the assignment of an investigator and citing applicable funds for payment of travel and per diem. As indicated in

paragraph 2-6, the transmittal letter will identify the part(s) of the complaint which have been accepted for investigation.

g. Immediately upon acceptance of a formal complaint, the Activity Commander should designate the activity labor counselor as the Army representative. An ADO may not serve as an Army representative. At the request of the labor counselor, the Activity Commander may also appoint a personnel specialist or other activity personnel to assist the labor counselor.

2-6. Arranging for the investigation

a. Within 3 calendar days after acceptance of a formal complaint, the EEO officer will request the assignment of a USACARA investigator. (See app A.) A copy of the request letter without enclosures will be provided to the complainant, his or her representative, and the labor counselor. The request must contain the following information:

(1) A clear statement of the issues that were accepted.

(2) A statement of the parts of the complaint that were rejected.

(3) The complainant's organization, work location, mailing address, and telephone numbers (both AUTOVON and commercial).

(4) The complainant's designation of a representative, including the representative's work and mailing addresses and telephone numbers (both AUTOVON and commercial).

(5) A fund citation for travel and per diem.

(6) A specific point of contact within the activity EEO office.

(7) Legible copies of the following documents:

(*a*) The formal complaint.

(*b*) The EEO counselor's report.

(*c*) Any relevant documents.

b. The EEO officer or a designee will arrange for the investigator's visit. This may include—

(1) Arranging for quarters and transportation.

(2) Providing a private office, clerical help, and access to a telephone.

(3) Making sure that all named witnesses and ADOs are readily available.

(4) Giving the investigator any other administrative help needed to conduct an efficient investigation.

c. The EEO officer should provide the labor counselor with at least 10 days advance notice of the dates, time, and location of the USACARA investigation.

d. To avoid the appearance of impropriety, no activity personnel, to include EEO, CPO, management, or labor personnel will express an opinion regarding perceived merits of a complaint, or lack thereof, with the USACARA investigator. However, activity personnel may disclose facts that would assist the USACARA investigator at any time prior to the completion of the investigation and receipt of the USACARA Report of Investigation (ROI).

2-7. Authority assigned to the USACARA investigator

By designation of the Secretary of the Army, USACARA investigators are authorized to act as shown below.

a. Investigate all aspects of a complaint. This includes reviewing and copying all records judged by the investigator to be pertinent to the investigation. Classified documents may be examained only by an investigator who possesses the appropriate security clearance.

b. Require all Army personnel to cooperate with the investigator in conducting the investigation.

c. Require Army personnel who have any knowledge of the matter complained of to furnish testimony under oath or affirmation without a a pledge of confidence, unless this testimony would result in self-incrimination.

d. Administer oaths.

e. Issue an ROI containing conclusions and recommendations.

2-8. Conducting the investigation

The investigator—

a. Collects facts and develops information on each accepted allegation in the complaint and reviews the circumstances under which the discrimination is alleged to have taken place. The investigator does not have the authority to expand the scope of the investigation to include any charges or allegations that were not included in the formal complaint or for which precomplaint counseling was not given. The obligation of the investigator to collect facts and develop information does not lessen the responsibility of the complainant and management to prepare, present, and explain their positions as to the disputes.

b. Administers oaths and obtains statements from witnesses under oath or affirmation. The investigator determines the witnesses whose testimony is necessary to the investigation and interviews and obtains affidavits from only these witnesses. Affidavits are included in the investigative file only if the investigator deems the testimony relevant and necessary. The investigator documents for the record the reason any witness identified by the complainant or by management was not interviewed and the reason evidence that was offered was not accepted.

c. Gives the ADO, if named or identified, full opportunity to review documents and respond to all

allegations made against him or her in accord with paragraph 7–3.

d. Collects and analyzes information on how members of the complainant's group are treated compared to other employees in the organization where the discrimination is alleged to have occurred. This information may include, for instance, statistical data on promotions, disciplinary actions, awards, or other personnel actions.

e. Investigates work policies and practices relevant to the accepted allegations of the complaint.

f. Collects information needed to review the merit of mixed case issues that are included under paragraph 4–2.

g. Is independent of control by any of the parties to the complaint, but is entitled to the full cooperation of all parties and their representatives.

h. Sends the ROI to the EEO officer, with a copy of the report without attachments to the EEO officer at the next higher level of command within 45 days after assignment of the case. This 45-day time limit is purely administrative in nature. Failure to process a USACARA investigation within this time frame will not prevent the administrative processing of any complaint of discrimination. Included in the file are the investigator's findings and recommendations and other relevant documents as described in paragraph 8–7.

2–9. Informal adjustment and offer of hearing

a. The EEO officer will thoroughly review the ROI to ensure that the ADO was given an opportunity to respond to each allegation as described in paragraph 7–3*c* and that the investigation is comprehensive and adequately addresses all issues accepted in the complaint. The EEO officer may return an ROI to USACARA for further investigation if the ROI is inadequate. The EEO officer will specify the additional issues to be investigated or evidence to be gathered.

b. Within 5 calendar days after receipt of the USACARA ROI, the EEO officer will send a complete copy of the USACARA ROI to the complaintant and his or her representative, if any, with an offer to meet and discuss an informal adjustment of the complaint.The ROI may be sent by certified mail, return receipt requested, or be personally delivered by an Army official. If the ROI is personally delivered, the complainant and the representative will acknowledge receipt in writing. If the complainant or the representative declines to sign a receipt, the server will sign and indicate to whom and when the ROI was served. The receipt will be filed in the complaint file.

c. If the complainant agrees, an adjustment meeting should be held within 10 calendar days after receipt of the USACARA ROI by the EEO officer. The Activity Commander, or a designee, should consult with the EEO officer, the labor counselor, and the CPO, on the proposed terms of the adjustment. The adjustment meeting should be accomplished by the least costly method while protecting the rights of the complainant. Adjustment meetings may be conducted by conference call or correspondence if the concerned parties are not readily available. The commander or a designee may also consult the ADO on the subject. Offers of settlement and the details of negotiations about settlement offers will not be included in the complaint file.

d. If a tentative settlement is reached, its proposed terms are coordinated by the EEO officer with the labor counselor and the CPO as appropriate before it is finalized. It is then signed by the complainant and the Activity Commander, or a designee, and made part of the complaint file. A copy of the terms of the settlement will be given to the complainant, his or her representative, and the ADO. (See fig 2–6.)

e. An informal adjustment may include an award of attorney fees and/or costs if there was a finding or admission of discrimination. (See para 5–5 for special procedures on no-fault settlements without a finding or admission of discrimination.) If the parties agree on an adjustment of the complaint, but cannot agree on the issue of attorney fees and/or costs, that issue will be handled separately. The issue of attorney fees and costs will then be the subject of a final decision by the Secretary of the Army or his or her designee. (See chap 5 for guidance.)

f. If the complainant does not agree to meet, or if an adjustment is not reached, the Activity Commander will give the complainant a Notice of Proposed Disposition of Discrimination Complaint with a copy furnished to the ADO. (See fig 2–7.) The notice, which must first be reviewed by the labor counselor for legal sufficiency, will—

(1) Indicate the date a meeting was held to attempt adjustment or that the complainant refused to meet.

(2) Notify the complainant of his or her right to a final Army decision with or without a hearing, and of the 15-calendar-day time limit to make the request. Decisions regarding attorney fees and/or costs will be made in accord with paragraphs 5–4 and 5–5.

(3) Contain an analysis of the case and the rationale for the proposed disposition.

(4) Be issued within 20 calendar days of receipt by the EEO officer of the USACARA ROI.

g. If the complainant does not respond within 15 calendar days from receipt of the Notice of Proposed Disposition, the Activity Commander will adopt the

proposed disposition as the final Army decision and notify the complainant accordingly, advising him or her of the right to appeal to the Office of Review and Appeals, Equal Employment Opportunity Commission, and the right to file a civil action (app B). Although complaint adjustments are specifically provided for in this paragraph, the activity should continue to be alert to the possibility of adjustments at any stage of the complaint process.

2-10. MACOM review of proposed dispositions

When a USACARA investigator recommends a finding of discrimination and the Activity Commander rejects that recommendation in favor of a proposed disposition finding no discrimination, that proposed disposition (along with the complaint file) will be forwarded to the Activity Commander's MACOM commander for review. The MACOM review will be performed within 30 calendar days after the issuance of the proposed disposition. The MACOM commander's review of the proposed disposition will be made a part of the complaint file. The MACOM review will be performed concurrent with the processing of a complaint for a hearing in accord with paragraph 2-13 or as part of the processing of a complaint for an Army decision without a hearing in accord with paragraph 2-12.

2-11. Failure to carry out the terms of the adjustment

If the activity does not carry out, or if it cancels, any action specified by the adjustment, for any reason not due to acts or conduct of the complainant, the complainant will be reinstated for further processing at the written request of the complainant. The complainant should be reinstated at the point where processing stopped. If the Activity Commander determines that the terms of the adjustment have been implemented, a decision declining to reinstate the complaint will be issued. Documents evidencing implementation will be attached to the decision with an advisement of appeal rights to the EEOC.

2-12. Request for Army decision without a hearing

When the complainant, dissatisfied with the Activity Commander's proposed disposition asks for an Army decision without a hearing, the EEO officer sends the original and one copy of the complaint file to EEOCCRA, ATTN: SFCR, WASH, DC 20310-1813. (For a list of the contents of the complaint file, see para 8-7.) The EEO officer ensures that all copies of the file are complete, legible, and identical.

2-13. Arranging a hearing

a. When the complainant asks for a hearing, th EEO officer requests assignment of a complain examiner from the EEOC District Office that ha geographic jurisdiction over the activity where th hearing is to be held. (See app C.) The hearing wi usually be held at the activity where the complainar is permanently assigned or has applied for emplo ment. If another location is preferred, the writte request to EEOC will specify the alternate locatio However, EEOC will decide where a hearing is to b held. For travel funding and other costs, see para graph 8-10.

b. The written request to EEOC will include th original complaint file. (See para 8-7.) In additio one copy of the tabbed complaint file will be sent t EEOCCRA.

c. The request to the EEOC will ask that th complaints examiner send the complaint file with th final report and four copies of the hearing transcri to the Director, EEOCCRA, ATTN: SFCR, WAS DC 20310-1813. When there is more than o complainant, the EEO officer will ask that a additional copy of the report and transcript be se to EEOCCRA for each additional complainant. the complaints examiner sends the report to th activity rather than to EEOCCRA, the EEO offic will immediately return the file to the EEOC b certified mail, return receipt requested, with instru tions to transmit it to the Director, EEOCCRA ATTN: SFCR, WASH DC 20310—1813.

d. The request to the EEOC will also provide th name, title, address, and telephone number of th labor counselor as the Army representative at th hearing. A copy of the request will be given to th complainant.

e. The EEO officer will arrange for the services a court reporter at the hearing. Activities may n use Army court reporters and should attempt arrange for a court reporter from Navy or Air For installations under an interservice support agreemer If no reporter is available, the activity may th contract for a court reporter through their contrac ing office using the General Services Administrati (GSA) Federal Supply Schedule.

2-14. The hearing

a. The hearing is conducted by an EEOC co plaints examiner subject to EEOC regulations a procedures. This paragraph is provided for inform tion and general guidance and does not control t EEOC complaints examiner's activities.

b. Before scheduling the hearing, the complain examiner reviews the complaint file to determine further investigation is needed and, if so, asks t activity to conduct the additional investigation. If

complaints examiner asks an activity to conduct further investigation, the EEO officer will promptly forward the request to the responsible USACARA Regional Office with an information copy of the transmittal letter furnished the complainant and the complaints examiner. The examiner may also ask the activity to arrange for the witness needed to testify at the hearing. (See para 8–1.) If a prehearing adjustment of the complaint is reached, the original copy of the agreement will be forwarded immediately to the activity EEO officer who will send necessary closeout documents to EEOCCRA.

c. Attendance at the hearing is limited to persons determined by the complaints examiner to have a direct connection with the complaint. The activity will make available all DA personnel called as witnesses for a hearing, unless the presence of a prospective witness is administratively impractical. The complaints examiner conducts the hearing to bring out pertinent facts and accept pertinent documents. Rules of evidence are not applied strictly, but the examiner will exclude irrelevant or unduly repetitious evidence. Information that has a bearing on the complaint, including employment policies or practices relevant to the complaint, will be received in evidence. The complainant, his or her representative, if any, and the labor counselor at the hearing are given the opportunity to cross-examine witnesses who appear and testify. Testimony is given under oath or affirmation. (See para 7–5 for the right of the ADO at the hearing.)

d. The hearing is recorded and transcribed verbatim. All documents accepted by the examiner at the hearing are made part of the record. If the labor counselor submits a document that is accepted, a copy of the document shall be furnished to the complainant. If the complainant submits a document that is accepted, he or she shall make the document available to the labor counselor for reproduction.

e. The complaints examiner considers all documents in the complaint file, including the record of the hearing, in making his or her findings, analysis, and recommendations. The examiner then sends the complaint file to EEOCCRA with the required number of copies of the examiner's report and hearing transcript, and notifies the complainant of the date that this is done. The report may include recommended remedial action, if proper, regarding the matter that gave rise to the complaint. Also, the examiner may send EEOCCRA a separate letter concerning conditions in the activity that do not have a direct bearing on the complaint.

2–15. Final Army decision

a. The Director of EEO or another person designated by the Secretary of the Army makes the final decision, in writing, for the Army. The decision, based on information in the complaint file, is sent to the complainant and his or her representative, if any, by certified mail, return receipt requested. Copies are sent to the MACOM and activity EEO officer. The decision may also be personally delivered to the complainant and the representative by an Army official. If so, the complainant and the representative acknowledge receipt by signing and dating the official copy, and the server signs it and indicates on the copy to whom and when the decision was served. The receipt or the signed copy is filed in the complaint file.

b. If a hearing was not held, the decision will specify the reasons for the decision and any remedial action to be taken.

c. If a hearing was conducted, the complainant and the activity will receive a copy of the findings, analysis, and recommendations of the complaints examiner with a copy of the hearing record. The final Army decision may adopt, reject, or modify the decision recommended by the complaints examiner. If the examiner has recommended a finding of discrimination and if the final Army decision modifies or rejects the recommended decision, the decision letter will give the specific reasons for the rejection or modification. A complaints examiner's recommended finding of discrimination will become final and binding on the Army if 180 calendar days have elapsed since the complaint was filed and the Army has not issued a final decision concerning the recommendation within 30 calendar days after its receipt.

d. The Army decision will require any remedial action authorized by law that is judged to be necessary or desirable to resolve issues of discrimination and to promote EEO policy.

e. If discrimination or reprisal is found and there is an attorney of record, the Army decision will advise the complainant and his or her representative that attorney fees and/or costs may be awarded and that any request for this award must be documented and filed within 20 calendar days after receiving the notice. Where the Army determines not to award attorney fees and/or costs to a prevailing complainant represented by an attorney, the decision will state the specific reasons for denying the award. Attorney fees and/or costs are not authorized in age discrimination complaints.

f. The Army decision will inform the complainant of the right to appeal the decision to the EEOC, of the right to file a civil action, and of the applicable time limits. (For appeal and civil action procedures, see chap 6.)

g. Paragraph 7–6 of this regulation addresses the

rights of the ADO when a final decision is made.

2-16. Avoiding delays

a. Complainants and management officials must not only comply with the time limits specified in this section and Army directives, they should also process a complaint without delay so that it may be resolved within 180 days after the formal complaint is filed. This includes the time spent by the complaints examiner in processing the complaint. In mixed cases covered by paragraph 4-2, the Army decision should be given within 120 days.

b. If the activity has not issued a decision and has not asked for a complaints examiner within 75 calendar days from the date a formal complaint was filed, the EEOC may require the Army to take steps to make sure the complaint is processed promptly. Alternatively, the EEOC may assume the complaint's processing. This assumption may include an EEOC investigation that will be paid for by the activity.

2-17. Canceling a complaint

a. If a complainant fails to prosecute the complaint prior to the issuance of the USACARA ROI, the EEO officer will notify the complainant of the possibility of cancellation if the complainant does not proceed within a specified time period. If the complaint is canceled, the EEO officer will notify the complainant, in writing, of the cancellation, and of his or her right to appeal to the EEOC or to file a civil action. The notice will also give the time limits for filing an appeal or civil action.

b. If the complainant fails to prosecute the complaint and it has been investigated by USACARA, the EEO officer should send the file to EEOCCRA and request that the Secretary of the Army or his or her designee issue a final decision.

2-18. Consolidation of complaints

a. Two or more complaints of discrimination filed by different Army employees, former employees, or applicants for employment, making substantially similar allegations of discrimination, may, with the written permission of the complainants, be consolidated for processing by any of the following individuals:

(1) EEO officer.
(2) Activity Commander.
(3) USACARA investigator.
(4) EEOC complaints examiner.

b. Two or more complaints of discrimination from the same employee or applicant may, at the discretion of the EEO officer, Activity Comander, USACARA investigator, or EEOC complaints examiner, be joined for processing after notifying the individual that his or her complaints will be processed jointly.

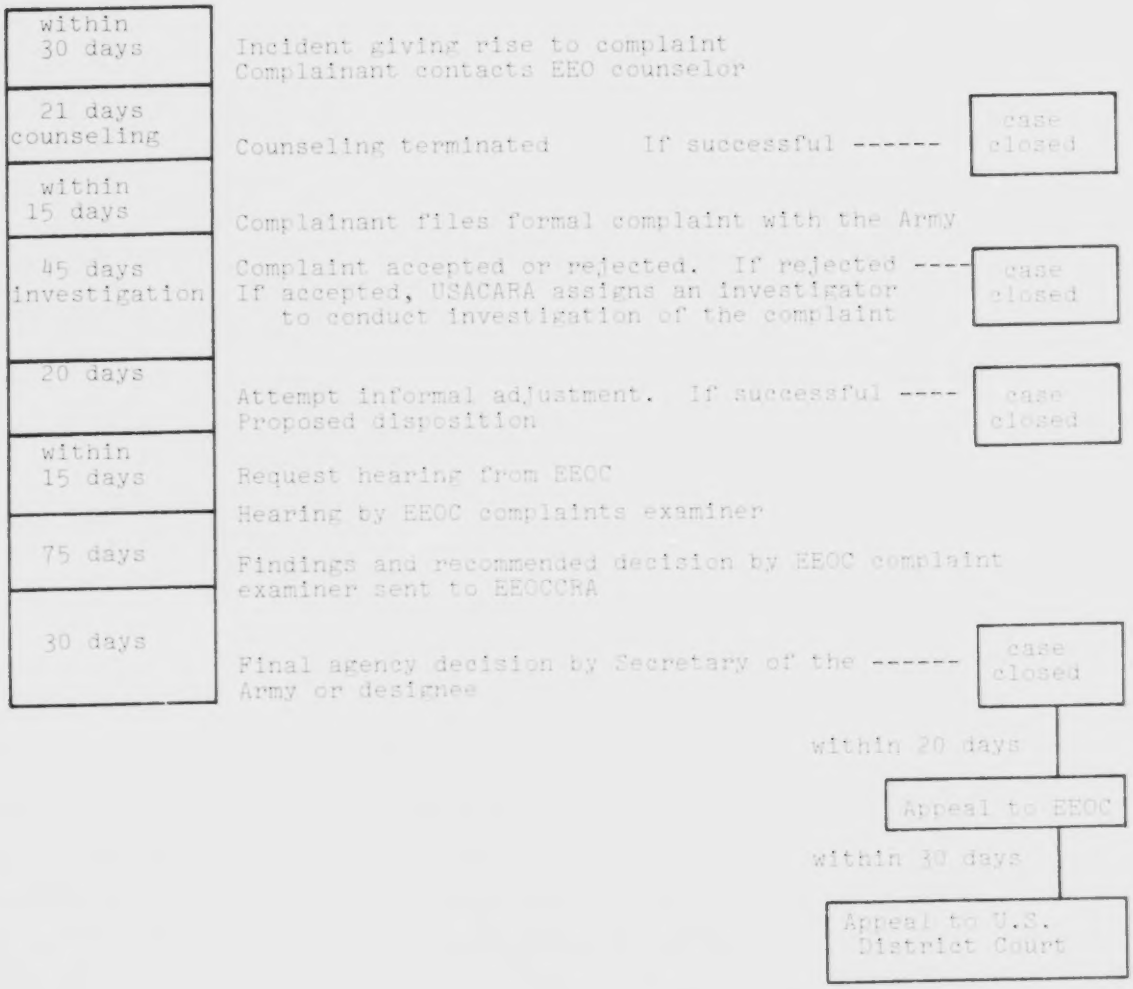
2-19. The complaint file

The complaint file will be indexed and tabbed in reverse chronological order and will contain legible copies of the documents listed in paragraph 8-7.

Table 2–1
Steps in individual complaints of discrimination

Action	Time Limits
1. Employee or applicant must see EEO counselor or EEO officer.	Within 30 calendar days after the alleged discrimination, personnel action, or when the complainant becomes aware or reasonably should have become aware of the action.
2. EEO counselor makes inquiry, tries to resolve complaint informally, conducts final interview, and, if complaint is not resolved, gives complainant written notice of right to file formal complaint.	Within 21 calendar days after matter first called to EEO counselor's attention.
3. Complainant files formal complaint (DA Form 2590–R) in writing with EEO officer or other designated official. Must advise EEO officer if he or she obtains legal or other representation.	Within 15 calendar days after receipt of the Notice of Final Interview or if final interview not held, anytime after 21 days from initial contact with the EEO counselor.
4. EEO officer accepts or rejects the formal complaint in whole or in part.	Within 5 calendar days after receipt of complaint.
5. EEO officer sends file to USACARA requesting assignment of an investigator if any part of complaint is accepted. If complaint is rejected, EEO officer notifies complainant and representative.	Within 3 calendar days after acceptance.
6. USACARA investigator completes investigation and sends ROI to activity.	Within 45 calendar days from assignment.
7. USACARA ROI furnished to complainant and an adjustment meeting offered.	Within 5 calendar days after receipt of USACARA ROI.
8. If adjustment meeting held and adjustment reached—	
a. Written agreement specifying terms of proposed disposition is signed by both parties. Copy is given to complainant.	
b. Activity Commander takes action agreed upon.	
9. If adjustment meeting is not held or no adjustment is reached—	
a. Activity Commander issues a proposed disposition, including finding issues of discrimination and proposed remedial action including appeal rights.	Within 20 calendar days from receipt of USACARA ROI.
b. Complainant informed of right to request EEOC hearing or Army decision without hearing.	Within 20 calendar days from receipt of USACARA ROI.
c. If complainant fails to respond, Activity Commander adopts proposed disposition as final Army decision and notifies complainant and representation.	Within 15 calendar days after notice proposed disposition.
d. If complainant asks for decision without hearing, EEO officer sends complaint file (original and one copy) to EEOCCRA.	Within 15 calendar days after notice proposed disposition.
e. If complainant requests hearing, EEO officer requests complaiants examiner from EEOC.	Within 15 calendar days after notice proposed disposition.
10. Hearing held and findings and recommendations sent by EEOC complaints examiner to EEOCCRA.	
11. Army final decision by the Director of EEO to include appeal right.	Within 180 calendar days after the date that the formal complaint was filed or 30 days after receipt of the examiner's report recommending a finding of discrimination.
12. Appeal to EEOC:	
a. Complainant sends notice of appeal to EEOC with copy to EEOCCRA.	Within 20 calendar days after receiving Army final decision.
b. Complainant sends statement or brief to support appeal of Army decision to EEOC, with a copy to EEOCCRA.	Within 30 calendar days after filing Notice of Appeal.
13. Civil action by complainant:	
a. Before final Army decision.	After 180 calendar days after filing formal complaint.
b. Instead of appeal to EEOC after Army final decision.	Within 30 calendar days after receiving Army decision.
c. Before EEOC final decision or appeal.	After 180 calendar days after filing appeal to EEOC.
d. After EEOC final decision on appeal.	Within 30 calendar days after receiving EEOC decision.

Note:
In age complaints, a complainant must appeal the Army decision to the EEOC before filing a civil action in a Federal District Court.


within 30 days
Incident giving rise to complaint
Complainant contacts EEO counselor
21 days counseling
Counseling terminated
If successful ------
case closed
within 15 days
Complainant files formal complaint with the Army
45 days investigation
Complaint accepted or rejected. If rejected ----
If accepted, USACARA assigns an investigator to conduct investigation of the complaint
case closed
20 days
Attempt informal adjustment. If successful ----
Proposed disposition
case closed
witnin 15 days
Request hearing from EEOC
Hearing by EEOC complaints examiner
75 days
Findings and recommended decision by EEOC complaint examiner sent to EEOCCRA
30 days
Final agency decision by Secretary of the Army or designee ------
case closed
within 20 days
Appeal to EEOC
within 30 days
Appeal to U.S. District Court

Notes:

1. In age discrimination complaints, a complainant must appeal the Army decision to the EEOC before filing a civil action in a Federal District Court.

2. All "days" refer to calendar days.

Figure 2-1. Procedural steps in an individual discrimination complaint.

SUBJECT: Avenues of redress for Army employees

FROM: EEO officer

TO: (Name of person counseled)

1. Grounds for discrimination complaint. If you believe you have been discriminated against because of race, color, religion, sex, national origin, age, physical or mental handicap and/or reprisal, or in an employment matter subject to the control of the Army, you may have the choice of more than one route to file a complaint and have it resolved.

2. Options for employees outside of the bargaining unit. If you are not a member of a bargaining unit covered by a union contract, you may select one of the following options:

a. The discrimination complaint procedure (covered by AR 690-600). Your first step under that procedure is to contact an EEO counselor within 30 calendar days from the date the act of discrimination took place or the date you became aware, or reasonably should have become aware, of the act of discrimination. If the counselor cannot resolve your problem, you may file a formal complaint. The counselor will tell you with whom to file your complaint and will explain complaint procedures. These include an investigation by the U.S. Army Civilian Appellate Review Agency, a hearing by the Equal Employment Opportunity Commission (EEOC), and a final decision by the Army.

b. The Merit System Protection Board (MSPB) appeal procedure. This procedure is available to you only if the alleged discriminatory action can be appealed to the MSPB, such as a removal, a suspension for more than 14 days, or any other appealable action. Usually, you will be notified in writing of your right to appeal to the MSPB.) The time limit for appeal to the MSPB is 20 days after the effective date of the personnel action which you believe discriminated against you. Under an MSPB appeal, you are entitled to a hearing by the MSPB. You may ask the EEOC to review the final decision of the MSPB.

3. Options for employees within the bargaining unit. If you are a member of a bargaining unit covered by a union contract and if the negotiated grievance procedure in that contract does not exclude discrimination issues, you may have the following options:

a. In actions under 5 USC Section 7512 (Removal, suspension for more than 14 days, reduction in grade, reduction in pay, furlough for 30 days or less) and 5 USC Section 4303 (Removal or reduction in grade for unacceptable performance), you have the following options. First, you may follow the discrimination complaint procedure described in paragraph 2*a* above. Second, you may follow the MSPB procedures described in paragraph 2*b* above. Third, you may follow the negotiated grievance procedure. Your union contract outlines the steps involved in a negotiated grievance procedure, which include an informal and a formal grievance with specific time limits for filing, and a decision by Army management. The next step, arbitration, may be requested only by the union or by the Army, not by you. If you choose the negotiated grievance procedure, you have the right to appeal the final Army decision or the arbitration award to the EEOC. Note that decisions in 5 USC Section 7512 or 4303 cases are not appealable to the Federal Labor Relations Authority (FLRA).

Figure 2-2. Sample format—avenues of redress for Army employees

b. In actions not covered by 5 USC section 7512 or 4303, but otherwise appealable to MSPB, you have access to the MSPB procedures only if such actions are excluded from the grievance procedure. If they are covered by the grievance procedure, the option is between the discrimination complaint procedure under AR 690-600 or the negotiated grievance procedure. If you choose the negotiated grievance procedure, you have the right to appeal the final decision (Army decision, arbitration award, or FLRA decision) to the EEOC or MSPB, as appropriate. Note that in actions not appealable to the MSPB, but covered by the grievance procedure, you may choose between the grievance procedure or the complaint procedure under AR 690-600.

4. Election of avenues or redress.

a. Your appeal to the MSPB will not be accepted if you have filed a timely formal complaint in writing, under AR 690-600 or a timely written grievance under the negotiated procedure.

b. A discrimination complaint under AR 690-600 will not be accepted if you have filed a timely appeal to the MSPB or a timely written grievance under the negotiated procedure.

c. A grievance under the negotiated procedure will not be accepted if you have filed a timely appeal to the MSPB or if you have initiated action under the discrimination complaint procedure in AR 690-600.

5. Additional information on avenues of redress. If you have any other questions on this matter, you may contact the management/employee relations section of the civilian personnel office, your union representative, or your activity EEO office.

Figure 2-2. Sample format—avenues of redress for Army employees—Continued

SUBJECT: Notice of Final Interview

FROM: EEO Counselor

TO: (Name of Person Counseled)

1. This is notice that on the above date the final counseling interview was held in connection with the matter you presented to me as an EEO counselor. You initially contact me on (DATE). You alleged that you were a victim of (SPECIFY) discrimination in the following action(s): (SPECIFY THE FACTS THAT ARE THE BASIS OF THE DISCRIMINATION COMPLAINT.)

2. If you believe you have been discriminated against on the basis of race, color, religion, sex, age, national origin, mental/physical handicap, and/or reprisal for participation in a Title VII activity, you have the right to file a complaint of discrimination within 15 calendar days after receipt of this notice.

3. This complaint must be in writing, preferably on a DA Form 2950-R, which can be obtained from the Equal Employment Opportunity Office. Your complaint must be filed in person or by mail with the following officials authorized to receive discrimination complaints:

a. Equal Employment Opportunity Officer
(ADDRESS)

b. Activity Commander
(ADDRESS)

c. Federal Woman's Program Manager
(ADDRESS)

d. Director of Equal Employment Opportunity
Department of the Army
ATTN: SFCR
WASH, DC 20310-1813

e. Secretary of the Army
ATTN: SFCR
WASH, DC 20310-1813

4. The formal complaint should specify the issues which form the basis for the complaint and the matter giving rise to the complaint which were discussed with the EEO counselor. If you add issues not counseled, the formal complaint will be returned to you for further counseling.

5. If an attorney is retained as a representative, you must notify the EEO officer (NAME AND ADDRESS).

(SIGNATURE BLOCK)
EEO counselor

Notes:
1. This notice is to be given to the person counseled at the final interview.
2. A copy of this notice will be provided to the EEO officer with the counselor's report and made part of the file.

Figure 2-3. Sample format—Notice of final interview with EEO counselor

SUBJECT: Notice of Right To File a Discrimination Complaint

FROM: EEO Counselor

TO: (NAME OF PERSON COUNSELED)

1. Although my inquiry into the matter you brought to my attention has not been completed, 21 calendar days have passed since you first contacted me and you are now entitled to file a discrimination complaint based on race, color, religion, sex, national origin, physical or mental handicap, age, and/or reprisal. If you do not file a complaint at this time, my inquiry will continue and your right to file a complaint will continue until 15 calendar days after the final interview with me. I will inform you in writing when the final interview is conducted. If you file a complaint, it must be in writing, preferably using DA FORM 2590-R, and filed in person or by mail with the following officials authorized to receive discrimination complaints:

a. Equal Employment Opportunity Officer
(ADDRESS)
b. Activity Commander
(ADDRESS)
c. Federal Women's Program Manager
(ADDRESS)
d. Director of Equal Employment Opportunity
Department of the Army
ATTN: SFCR
WASH, DC 20310–1813
e. Secretary of the Army
ATTN: SFCR
WASH, DC 20310–1813

2. If you file your complaint with one of the officials listed above, it will be sent to the activity EEO officer for processing. Therefore, if you choose to file your complaint with any of the officials listed above be sure to provide a copy of your complaint to the EEO officer to ensure prompt processing of your complaint.

3. The complaint must be specific and must be limited to the matters discussed with me. It must also state whether or not you have filed a formal grievance or an appeal to the Merit Systems Protection Board on the same matters. Additionally, you must state whether you are having this matter considered under a negotiated grievance procedure.

4. You or your representative must immediately notify the EEO officer, in writing, if you retain an attorney or any other person to represent you.

(SIGNATURE)
EEO counselor

Notes:
1. This notice is to be given to the person counseled 21 days after the counselor was first contacted on this matter by the complainant.
2. A copy of this notice will be provided the EEO officer with the counselor's report and made a part of the complaint file.

Figure 2–4. Sample format—notice of right to file a discrimination complaint

SUBJECT: Notice of Receipt of Discrimination Complaint

FROM: EEO Officer

TO: (COMPLAINANT)

1. This notice acknowledges receipt of your discrimination complaint dated (DATE), and gives you a written notice of your right and the time requirements for exercising these rights. If you have further questions, please ask your EEO counselor or contact me.

2. If your complaint is accepted, it will be investigated. Based on the information developed by the investigation, an attempt will be made to resolve your complaint informally. You will receive a copy of the investigative report and have an opportunity to discuss it with an Army official.

3. If your complaint, or any allegation contained in it, is rejected, the rejection is considered to be a final Army decision on the complaint or that part of the complaint which is rejected. You will receive a notice by separate letter if your complaint or any part of it is rejected. You will be advised at that time of your rights of appeal.

4. If a complaint is settled, the terms of the settlement will be stated in writing and you will be given a copy.

5. If a complaint is not settled you will be notified in writing of the proposed disposition of the complaint. You will also be notified of your right to a hearing by an Equal Employment Opportunity Commission (EEOC) complaints examiner who will recommend a decision to the Army, or to a decision by the Army without an EEOC hearing. If you want a hearing or a decision by the Army without a hearing, you must notify the Army in writing within 15 days after receiving the proposed disposition of your complaint. Your request for a hearing or for an Army decision without a hearing must be addressed to me in order that I can make the necessary arrangements.

6. If, within 15 days after your receipt of the proposed disposition, you fail to request a hearing or to ask for a decision by the Army without a hearing, that disposition will become the final Army decision.

7. If you are dissatisfied with the final Army decision (with or without a hearing), you may file a notice of appeal to the EEOC Office of Review and Appeals within 20 calendar days after receiving the decision. A copy of the notice should be sent to EEOCCRA ATTN: SFCR, WASH DC 20310–1813. Also, you may submit a brief or statement to support your appeal within 30 calendar days after filing the notice of appeal. At the same time, you must furnish a copy of the supporting brief or statement to EEOCCRA.

8. Any appeal to the EEOC should be addressed to the Director, Office of Review and Appeals, Equal Employment Opportunity Commission, 2401 E. Street, NW., Wash DC 20506. The appeal and any representations in its support must be filed in duplicate.

Figure 2–5. Sample format—notice of receipt of discrimination complaint

9. Instead of an appeal to the EEOC, you may file a civil action in a proper Federal District Court within 30 calendar days after receiving the Army decision or, if the Army has not issued a final decision on your complaint, after 180 calendar days from the date the formal complaint was filed.

10. If you decide to appeal to the EEOC Office of Review and Appeals, you will still have an opportunity to file a civil action in a Federal District Court within 30 calendar days after receiving the EEOC's final decision, or 180 calendar days after the date of your initial appeal to the Commission if EEOC has not rendered a final decision.

(SIGNATURE BLOCK)
EEO Officer

Notes:
1. The notice is sent by certified mail, return receipt requested, or personally delivered to both complainant and representative. If the notice is personally delivered, the complainant and his or her representative will ackowledge receipt by signing and dating the official file copy of the notice. If they decline to sign the copy, the server will sign it and indicate to whom and when the notice was served.
2. A copy of the notice given to the complainant will be filed in the complaint file. In age discrimination cases, references to the right to file a civil action (paras 4 and 5) will specify that the complainant can file a civil action in a Federal District Court 30 days after providing notice to the EEOC of his or her intent to file a civil action. Such notice must be given to the EEOC within 180 days of the occurrence of the alleged discriminatory act. If a complainant elects to pursue his or her age discrimination complainant through the administrative procedures outlined in chapter 2, then he or she may not file a civil action in a Federal District Court until all administrative remedies (including an appeal of the final Army decision to the EEOC) have been exhausted.

Figure 2-5. Sample format—notice of receipt of discrimination complaint—Continued

NEGOTIATED SETTLEMENT AGREEMENT

IN THE MATTER OF:

(NAME)
Complainant

AND
(NAME OF ORGANIZATION)

1. In the interest o. prompting its Equal Employment Opportunity Program and to avoid protracted litigation, the Army agrees to settle the above-captioned complaint on the basis shown below.
2. By entering this settlement, the Army does not admit that it has violated the Civil Rights Act of 1964, as amended, or any other Federal of State statute or regulation.
3. The Army agrees to (SPECIFY REMEDY TO BE PROVIDED AND PROCESS BY WHICH REMEDY IS TO BE PROVIDED).
4. Complainant's signature on this agreement constitutes the withdrawal of his or her complaint. In addition, the complainant agrees that he or she waives his or her right to sue over the matters raised in this complaint and that they will not be made the subject of future litigation.
5. If the Army does not carry out, or rescind, any action specified by the terms of the adjustment for any reason not attributable to acts or conduct of the complainant, the Army shall, upon the complaint's written request, reinstate the complaint for further processing from the point processing ceased under the terms of the adjustment. If the Activity Commander determines that the terms of the adjustment have been implemented, a decision declining to reinstate the complaint will be issued and the complainant will be advised of his/her appeal rights to EEOC.
6. I have read the Negotiated Settlement Agreement and accept and agree to its provisions.

For the Army

(ACTIVITY COMMANDER'S SIGNATURE)

Date_____

Complainant

(COMPLAINANT'S signature)
(Signature of COMPLAINANT'S representative, if any)

Date_____

Figure 2-6. Sample format—negotiated settlement agreement

SUBJECT Notice of Proposed Dispostion of Discrimination Complaint

FROM: Activity Commander

TO: (COMPLAINANT)

1. This notice is to inform you of the proposed disposition of your discrimination complaint and of your rights if you are dissatisfied with the proposed disposition.

a. *Proposed disposition.* (STATE THE SPECIFIC PROPOSED DISPOSITION OF THE COMPLAINT. INCLUDE A LEGAL ANALYSIS OF THE COMPLAINT, DISCUSSION OF THE FACTS, FINDING ON THE ISSUE OF DISCRIMINATION, AND A STATEMENT OF PROPOSED REMEDIAL ACTION IF APPLICABLE.)

B. *Right to a hearing.*

(1) If you are dissatisfied with the proposed disposition, you may request a hearing by the Equal Employment Opportunity Commission (EEOC) and a decision by the Army if you notify the EEO officer (PROVIDE SPECIFIC MAILING ADDRESS) within 15 calendar days after receiving this notice, that you desire such a hearing.

(2) If you request a hearing, you are expected to proceed without delay in presenting your complaint before the assigned EEOC complaints examiner. If you plan to have a representative, you should immediately obtain representation. You should also begin preparing a list of proposed witnesses with a summary of the testimony you believe each would present at the hearing. The complaints examiner will request this list immediately after being assigned to your case.

(3) The failure to prosecute your complaint in a timely fashion may be grounds for the complaints examiner to return your case to the Army. The Army may then cancel your complaint or issue a final decision based on the evidence present in the complaint file.

c. *Right of decision without a hearing.* If you are dissatisfied with the proposed disposition, you may request a decision by the Secretary of the Army or his or her designee without a hearing, based on the evidence in the complaint file. This request must be made to (ACTIVITY EEO OFFICER) within 15 calendar days after receiving this notice.

d. *Right of appeal.* If you fail to notify the EEO officer of your intentions within the 15-day period, I or my designee may adopt as the Army final decision the proposed disposition shown above and will so notify you in writing. On receiving notification, you may file a notice of appeal to the EEOC Office of Review and Appeals within 20 calendar days. You may also submit a brief or statement to the EEOC to support your appeal within 30 calendar days after filing the notice of appeal. You must furnish the Equal Employment Opportunity Compliance and Complaint Review Agency (EEOCCRA), ATTN: SFCR WASH DC 20310-1813, with a copy of your appeal and a brief or statement. Instead of an appeal to the EEOC, you may file a civil action in a proper Federal District Court within 30 calendar days after you receive the final Army decision. If the Army has not issued a final decision, a civil action may be filed 180 calendar days after the date you filed your formal complaint.

2. If you appeal to the EEOC, you may still file a civil action within 30 calendar days after receiving the EEOC decision. You may also file a civil action

Figure 2–7. Sample format—notice of proposed disposition of Discrimination Complaint

180 days after your appeal to EEOC if you have not received a final decision.

(SIGNATURE BLOCK)
Activity Commander

Notes:
1. The notice is sent by certified mail, return receipt requested, or personally delivered to both complainant and representative if any. If the notice is personally delivered, the complainant and his or her representative, if any, will acknowledge receipt by signing and dating the official file copy of the notice. If they decline to sign the copy, the server will sign it and indicate to whom and when the notice was served.
2. A copy of the notice given to the complainant will be filed in the complaint file. In age discrimination cases, references to the right to file a civil action (paras 1d and 2) will specify that the complainant can file a civil action in Federal District Court only after all administrative remedies (INCLUDING AN APPEAL OF THE FINAL ARMY DECISION TO THE EEOC) have been exhausted.

Figure 2–7. Sample format—notice of proposed disposition of Discrimination Complaint —Continued

Chapter 3
Class Complaints of Discrimination

3-1. General guidance

a. An employee or applicant who wishes to be an agent for a class and who believes the class has been discriminated against because of race, color, religion, sex, national origin, physical or mental handicap, age, and/or reprisal in an employment matter controlled by the Army, may file a class complaint of discrimination. An agent must be a member of the class and must allege that he or she has been personally harmed by a personnel policy or practice that the Army has the authority to change or eliminate.

b. EEO personnel trained in handling class complaints serve as the counselors for class complaints.

c. Agents of the class should be thoroughly familiar with the criteria in paragraph 3-3 before they file a class complaint.

d. The summarized step-by-step procedure at table 3-1, and the flow chart at figure 3-1 may be reproduced locally and used as a handout.

3-2. Precomplaint processing

a. An employee or applicant for employment who wishes to be an agent in a class complaint must consult with the responsible activity's designated EEO counselor for class complaints. Contact must be made within 90 calendar days from one of the following dates:

(1) The date of the matter giving rise to the allegation of individual discrimination.

(2) The effective date of a personnel action.

(3) The date that the aggrieved person became aware, or reasonably should have become aware of the discriminatory event or personnel action.

b. The counselor should advise all aggrieved persons orally and in writing of the following:

(1) The discrimination complaint procedures.

(2) The criteria for the acceptance of class complaints.

(3) The aggrieved person's right to be represented throughout the precomplaint and complaint process.

(4) The aggrieved person's right to anonymity during the precomplaint process unless disclosure is authorized by the aggrieved person or a formal complaint is filed.

c. EEO counselor duties. The EEO counselor will—

(1) Make whatever inquiry is necessary to clarify and define the issues.

(2) Counsel the aggrieved person concerning the issues involved.

(3) Inform the EEO officer and the CPO and other affected officials when corrective action is believed necessary.

(4) Attempt informal resolution through discussions with appropriate officials of the responsible activity. When involved in such discussions, the counselor may seek advice from the servicing legal office.

(5) Keep records of all counseling activities.

(6) Summarize in writing actions and advice given, if any, concerning the issues in the personnel management policy or practice.

(7) Provide sufficient information to the EEO officer so that he or she may notify by electrical transmission the Director of EEOCCRA (EEOCCRA/SFCR/WASH DC 20310-1813) and OTJAG (DAJA/LTC/WASH DC 20310-2210) within 5 calendar days after the start of precomplaint processing. The information provided must identify precisely all matters raised in the complaint. The right of anonymity during the precomplaint processing will be observed unless disclosure is authorized by the class agent. If possible, the counselor should reach a mutual agreement with the class agent and his or her representative, if any, as to the specific issues to be considered. This agreement will be in writing and signed by the parties concerned with a copy provided to the complainant and his or her representative. Information provided to the Director, EEOCCRA, will identify precisely all matters raised in the complaint, except that anonymity during the precomplaint processing will be observed unless disclosure is authorized by the class agent.

(8) Conduct the final interview and terminate counseling with the class agent not later than 30 calendar days after the date on which the allegation was first called to the counselor's attention. This interview will take place whether or not the matter has been resolved. At this final interview, the counselor informs the aggrieved person in writing that—

(*a*) Counseling is over.

(*b*) The class agent has the right to file a formal class complaint of discrimination within the next 15 days.

(*c*) The class agent must immediately inform the EEO officer if he or she hires legal or other representation.

(*d*) A formal complaint must specifically describe the acts of alleged discrimination.

(*e*) Only matters discussed with the EEO counselor will be considered in a formal complaint.

(9) Avoid influencing the class agent in any way regarding the filing of a class complaint.

(10) Not reveal the identity of the class agent during the precomplaint processing stage, except when authorized to do so by the class agent.

(11) Prepare and submit a counselor's report to the activity EEO officer within 5 calendar days after the final interview.

3-3. Filing a formal class complaint

a. The complaint must be filed in writing by the class agent or a representative and be signed by the class agent.

b. It must describe specifically the policy or practice that gave rise to the complaint and the resultant personnel action or matter that harmed the class agent.

c. It must be filed no later than 15 calendar days after the class agent has received the notice of final interview from the EEO counselor. For that purpose, the date a complaint is filed is the date of the postmark, or, if no postmark, the date the complaint is received by one of the officials listed in *d* below.

d. Persons to whom class complaints may be submitted.

(1) A formal class complaint may be filed with any of the following:

(*a*) The responsible activity EEO officer.

(*b*) The Director of EEO.

(*c*) The Secretary of the Army.

(2) EEO activity publications and the EEO counselor will request the class agent to submit a copy of his or her class complaint to the responsible activity EEO officer in every case. Any of the officials listed above will immediately transmit the complaint by the fastest means possible to the responsible activity EEO officer, indicating the date of receipt of the complaint if it is not postmarked.

e. At all stages, in the preparation and presentation of a complaint, the class agent will have the right to be represented, accompanied, and advised by a representative of his or her own choosing, provided the choice does not involve a conflict of interest or position. The designation of the representative must be made in writing and made part of the class complaint file.

f. If the agent is employed by the Army, he or she will have a reasonable amount of official time to prepare and present his or her complaint. Employees who represent fellow Army employees in discrimination complaint cases must be permitted to use a reasonable amount of official time to carry out that responsibility, whenever it is not inconsistent with the performance of their duties. (See para 8-2*d*.) Army employees who represent non-Army employees in a complaint will be granted, at their request, a reasonable amount of annual leave or leave without pay for this purpose.

g. Upon receipt of the class complaint, the responsible EEO officer will immediately send a copy of the complaint to EEOCCRA (EEOCCRA/SFCR/WASH DC 20310-1813) and OTJAG (DAJA/LTC/WASH DC 20310-2210). Receipt of the complaint will be acknowledged, in writing, by EEOCCRA. The acknowledgement will contain a docket number assigned to the case which will be used in processing the class complaint.

3-4. Designating the Army representative

The activity labor counselor should be designated by the Activity Commander as the Army representative. At the request of the labor counselor, the Activity Commander may also appoint a personnel specialist or other activity personnel to assist the labor counselor.

3-5. Criteria for acceptance

A class complaint or any part of it may be accepted unless it contains one or more of the following:

a. Refers to a situation over which the Army has no jurisdiction.

b. Is not based on the class or agent's race, color, religion, sex, age, national origin, physical or mental handicap, and/or reprisal. Complaints of discrimination because of age are accepted only if the class agent and the class were at least 40 years of age when the action occurred.

c. Consists of allegations identical to those made in a previous class complaint, filed for the same class, that is pending or has been resolved by the Army or other proper authority.

d. Is untimely.

(1) Class complaints must be brought to the attention of an EEO counselor within 90 calendar days after the incident, effective date of a personnel action, or the date that the aggrieved person became aware, or reasonably should have become aware, of the discriminatory event or personnel action.

(2) Formal class complaints must be filed within 15 calendar days after the date of the final interview with the EEO counselor.

e. Lacks specificity and detail.

f. Was not filed in writing or was not signed by the class agent.

g. Designates a class that is small enough that a consolidated complaint of the members of the class would be practical. (See para 2-18.)

h. Alleges no questions of fact common to the class.

i. Asserts claims of the class agent that are not typical of the claims of the class.

j. Specifies a class agent or representative that will

not protect the interests of the class fairly and adequately.

3–6. Acceptance, rejection, or cancellation of the formal complaint

a. The activity EEO officer will review the class complaint, along with the EEO counselor's report and all other available evidence relevant to the acceptance of the class status of the complaint as specified in paragraph 3–5. The EEO officer should coordinate with the servicing legal office and CPO for their comments to the EEOC complaints examiner in accord with *b*(4) below.

b. The EEO officer must forward the following items to the EEOC district office having geographic jurisdiction over the activity (app C) within 10 calendar days after receipt of the class complaint.

(1) The class complaint.

(2) The EEO counselor's report.

(3) Any other information that may help the EEOC complaints examiner determine whether the complaint meets the criteria for acceptance specified in paragraph 3–5.

(4) Any brief prepared by the labor counselor regarding the acceptability of the class status of the complaint. At the request of the labor counselor, a personnel specialist may be appointed to assist the labor counselor in the preparation of the brief.

(5) A written instruction that the EEOC complaints examiner send the recommended decision on acceptance, rejection, or cancellation of the class complaint directly to EEOCCRA, ATTN: SFCR, WASH DC 20310–1813.

c. If an allegation is not included in the EEO counselor's report, the EEOC complaints examiner gives the class agent 15 calendar days to explain whether it was discussed and, if not, the reason it was not discussed. If the explanation is not satisfactory, the complaints examiner may recommend that the Army reject the allegation. If the explanation is satisfactory, the complaints examiner may refer the allegation back to the EEO counselor for further counseling of the agent.

d. If an allegation is not specific and lacks detail, the complaints examiner gives the agent 15 calendar days to correct it. If the agent does not give the required information within that time, the complaints examiner may recommend that the Army reject the complaint. If the information given makes new allegations outside the scope of the complaint, the examiner advises the agent to file an individual or class complaint based on these allegations.

e. The complaints examiner may recommend that the Army extend the time limits for filing a complaint and for consulting with an EEO counselor. This may be done when the agent or the representative establishes either of the following:

(1) The class agent was not notified of the prescribed time limits and was not otherwise aware of them.

(2) The class agent was prevented by circumstances beyond his or her control from acting within the time limits.

f. The complaints examiner may recommend that the Army cancel a complaint if the agent fails to prosecute the complaint. This action may be taken when the agent fails to respond, within 15 calendar days, to a written request from the complaints examiner to give information or proceed with the complaint. No complaint may be canceled unless the class agent is first notified, in writing, that failure to proceed within a specified time may result in cancellation of the class complaint.

g. When requesting information under *d* or *e* above, the complaints examiner informs the class agent that the complaint may be rejected if the information is not provided.

h. The complaints examiner's written recommendation to accept, reject, or cancel a class complaint is sent to the Director, EEOCCRA, the class agent, and the agent's representative.

i. Upon receiving the complaint examiner's recommendation, the EEOCCRA reviews the recommendations and the case file. The EEOCCRA recommends to the Secretary of the Army his or her designee whether to accept, reject, or cancel the class complaint.

j. The Secretary of the Army or his or her designee will notify the class agent, the agent's representative and the complaints examiner of the Army decision, and will send a copy of the notice to the MACOM and activity EEO officer.

k. The notice of decision to reject or cancel must inform the class agent of all of the following:

(1) The right to proceed with an individual complaint of discrimination.

(2) The right to appeal the Army decision to the EEOC Office of Review and Appeals.

(3) The right to file a civil action. In age discrimination complaints, the agent must appeal a rejection or cancellation to the EEOC before he or she may file a civil action.

l. The complaint examiner's recommendation to accept, reject, or cancel the complaint becomes the Army decision unless it is accepted, modified, or rejected by the Secretary of the Army or his or her designee within 10 calendar days after its receipt.

m. Acceptance of a class complaint by the Secretary of the Army or his or her designee for purposes of administrative processing under this regulation is

not an admission of class status within the meaning of Rule 23 of the Federal Rules of Civil Procedure for purposes of litigation within a Federal District Court.

3-7. Notification and opting out

a. Upon notification of acceptance of a class complaint, the activity EEO officer will immediately make reasonable efforts to notify all class members of the existence of a class complaint. The notice will advise class members of their right to remve themselves from the class by notifying the Army within 30 calendar days after the notice is issued. The EEO officer will determine the reasonable means such as delivery, mailing, distribution, or posting, for notifying the class members.

b. The notice will contain the following:

(1) The name of the agency or organizational segment, its location, and the date the class complaint was accepted by the Army.

(2) A description of the issues accepted in the class complaint.

(3) An explanation that class members may remove themselves from the class by notifying the activity EEO officer within 30 calendar days after the issuance of the notice.

(4) An explanation of the binding nature of the final decision on the formal class complaint.

3-8. Avoiding delay

A class complaint must be processed promptly. All parties will proceed with the complaint without delay so that the time limits imposed by the complaints examiner will be met and the complaint will be processed within 180 calendar days after filing.

3-9. Developing evidence

a. The complaints examiner gives the labor counselor and the class agent and his or her representative, if any, 60 calendar days to prepare their cases and develop the evidence based on EEOC regulations. The complaints examiner may extend this time if requested by either party.

b. During the time allowed to develop the evidence, the complaints examiner may, at his or her discretion, direct that an investigator trained or certified by the EEOC, investigate facts relevant to the class complaint or to any portion of it. In this event, the labor counselor will immediately notify the EEO officer who will request, in writing, within 3 days of receipt of the examiner's directive, the assignment of an investigator by the appropriate USACARA Regional Office citing applicable funds for travel and per diem.

c. Both parties will give the examiner all materials that they wish examined and other material the examiner may request.

3-10. Resolution of the complaint

a. The complaints examiner gives the class agent, or his or her representative, and the labor counselor a copy of all materials obtained. Also, the examiner provides an opportunity for the class agent to discuss these materials with the labor counselor and to try to resolve the complaint.

b. Though an opportunity to resolve the complaint is specifically provided at this stage, both parties may agree to resolution at any time after the complaint has been accepted.

c. If the complaint is resolved, the terms of the resolution will be put in writing and signed by the class agent and the Activity Commander, after coordination with the EEO officer, the labor counselor, and the CPO. A written resolution may include a finding on the issue of discrimination and an award of attorneys fees and/or costs. It must also include, any corrective action agreed on. The corrective action must be consistent with the law, executive orders, negotiated agreements, and Federal regulations, rules, and instructions. A copy of the signed resolution will be given to the class agent.

d. Notice of the resolution will be given to all class members in the same way as the notification of the acceptance of the class complaint. This notice will state the terms of the corrective action, if any, to be granted by the Army. A resolution binds all members of the class, except those who have properly removed themselves.

e. If the Army does not carry out, or rescind, any action specified by the resolution, for reasons not due to acts or conduct of the class agent, the representative, or class members, it will reinstate the complaint for processing at the class agent's written request. The complaint should be reinstated at the point were processing stopped. The agent may appeal to the EEOC Office of Review and Appeals the Army's failure to reinstate the complaint.

3-11. Procedures for the hearing

a. At the end of the period allowed to prepare the case, the complaints examiner will set a date for a hearing. Witnesses and representatives at the hearing are authorized as provided for in chapter 8. Only persons directly connected to the complaint (as determined by the examiner) may attend the hearing.

b. The complaints examiner will conduct the hearing and given an opportunity to the parties to introduce evidence and to cross-examine witnesses. Testimony will be under oath or affirmation. Rules of evidence are not applied strictly, but the com-

plaints examiner may exclude irrelevant or unduly repetitious evidence. The examiner may also exclude any person from the hearing for conduct that obstructs the hearing.

c. The hearing is recorded verbatim and the transcript is made a part of the record. The complaints examiner sends to EEOCCRA the record of the hearing, the report of findings, and a recommended decision on the complaint. This decision includes corrective action where appropriate. The examiner notifies the class agent of the date the report of findings and recommendations was sent to the EEOCCRA.

3–12. Final Army decision

a. Within 30 calendar days after the Army receives the examiner's report, the Secretary of the Army or his or her designee must issue a written decision to accept, reject, or modify the findings and recommendations of the examiner.

b. The decision is sent to the class agent and to his or her representative, with a copy of the transcript of the hearing and of the findings and recommendations of the examiner.

c. If the Army decision is to reject or modify the findings and recommendations of the complaints examiner, the decision must state, in detail, the specific reasons for the Army action.

d. If the Army has not issued a decision within 30 calendar days after receiving the examiner's report, the findings and recommendations of the examiner will become the final Army decision. This decision and the record of the hearing must then be sent by EEOCCRA to the class agent or his or her representative. A copy of the final Army decision will be sent to the MACOM, the Activity Commander, and to the activity EEO officer.

e. Within 10 calendar days of the transmittal of the final Army decision to the class agent, the EEO officer will notify all members of the class of the final Army decision by the same means used to notify the class of the existence of the class complaint. (See para 3-7a.)

f. The final Army decision will direct any remedial action authorized by law determined to be necessary or desirable to resolve the issue of discrimination and to promote the policy of equal employment opportunity. When discrimination is found, the notice of decision will—

(1) Advise the class agent and his or her representative, if any, that attorney fees and/or costs may be awarded. The payment of attorney fees and/or costs is not authorized in administrative complaints of age discrimination.

(2) State that a request for such award must be filed within 20 calendar days after receipt.

(3) List the documents that must be sent with the request. (See para 5–4.)

g. The notice of decision must inform the class agent and his or her representative, if any, of the right to appeal the Army decision to the EEOC Office of Review and Appeals, of the right to file a civil action, and of the applicable time limits. (For details on appeals and civil actions, see chap 6.)

h. A final Army decision on a class complaint filed under this regulation is binding on the Army and all members of the class, except those who have properly removed themselves from the class.

3–13. Corrective action

a. If discrimination is found, the Army must eliminate or change the personnel policy or practice that gave rise to the complaint, so that the policy or practice will no longer cause such discrimination. Also, the Army must provide individual remedial action to the class agent including an award of attorney fees and/or costs, as appropriate, as provided in chapter 5. (The Army must fulfill obligations to consult or negotiate with the unions that have exclusive recognition before doing away with or changing personnel policies or practices.)

b. If discrimination is found and a class member believes that, but for that discrimination, he or she would have been given employment or an employment benefit, the class member may file a written claim within 30 calendar days with any of the persons listed below. The claim will be filed within 30 calendar days after the notification.

(1) The activity EEO officer.

(2) The director of EEOCCRA.

(3) The director of EEO for the Army.

(4) The Secretary of the Army.

c. The claim must include details showing that the claimant is a class member who was affected by a personnel action or matter resulting from the discriminatory policy or practice within no more than 135 calendar days before the class complaint was filed.

d. The Army will try in good faith to resolve the claim within 60 calendar days of receipt. If the Army and the claimant do not agree that the claimant is a member of the class or do not agree on the relief to which the claimant is entitled, the Army will refer the claim, with its recommendations, to the complaints examiner.

e. The complaints examinder will notify the claimant of the right to a hearing on the claim and will give the parties to the claim an opportunity to submit evidence and representations on the claim. If a hearing is requested, it will be conducted in accord with paragraph 2–14. If a hearing is not requested,

the complaints examiner, at his or her discretion, may hold a hearing to obtain the necessary evidence on the claim.

f. The complaints examiner will issue a report of findings and recommendations on the claim to the Director, EEOCCRA. The Army will issue a final decision within 30 calendar days of receipt of the examiner's report. If a decision is not issued within 30 calendar days, the examiner's findings and recommendations will become the final decision.

g. If the complaints examiner determines that the claimant is not a member of the class or that the claim was not filed in a timely manner, he or she will recommend rejection of the claim and given notice of this action to the Army, the claimant, and the claimant's representative. The notice will inform the claimant of the right to appeal to the EEOC Office of Review and Appeals or to file a civil action in accord with chapter 6.

3–14. The complaint file

The complaint file will be indexed and tabbed in reverse chronological order and will contain legible copies of the documents listed in paragraphs 8–7.

Table 3–1

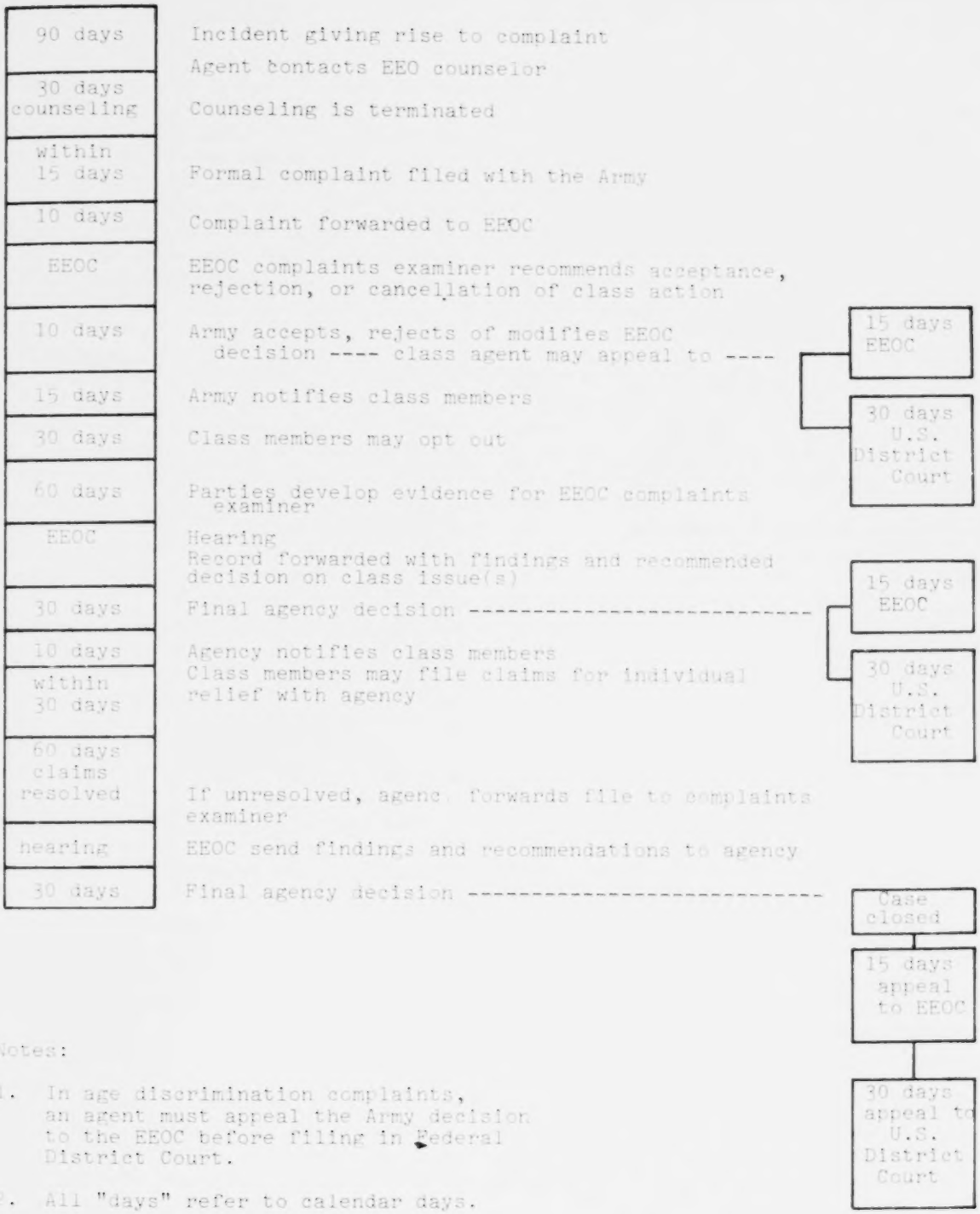
Steps in class complaints of discrimination

Action	Time Limits
1. Class agent contacts EEO counselor about class complaint.	Within 90 calendar days after alleged discriminatory matter, personnel action, or the date that the aggrieved person became aware or reasonably should have become aware of the discriminatory event or personnel action.
2. EEO counselor makes inquiry, attempts informal resolution, and conducts final interview. Informs class agent, in writing, of right to file formal complaint.	Within 30 calendar days after contact by class agent.
3. Class agent files formal complaint with EEO officer. Notifies EEO officer if legal representation is obtained.	Within 15 calendar days after receiving Notice of Final Interview.
4. EEO officer coordinates with labor counselor on class status of complaint.	
5. EEO officer sends complaint file, including a brief if deemed necessary, to EEOC district office for assignment of complaints examiner.	Within 10 calendar days after receiving complaint.
6. Allegations not discussed with EEO counselor or nonspecific allegations are returned or nonspecific allegations are returned by EEOC complaints examiner for additional information.	Within 15 calendar days for response from activity or class agent.
7. Complaints examiner recommends to the Secretary of the Army or his or her designee to accept, reject or cancel complaint. Sends copy to agent.	
8. Secretary of the Army or his or her designee decides to accept, reject, or cancel complaint. If decision is to reject or cancel, advises class agent or right to file individual complaint and appeal to EEOC.	EEOC recommendation becomes Army decision unless Secretary of the Army or designee rejects or modifies it within 10 calendar days after receipt.
9. If complaint accepted, the EEO officer notifies all class members of existence of class complaint and right to opt out. Activity Commander designates Army representative.	Within 15 calendar days after acceptance.
10. Class members may opt out. (Final decision binding on all members who do not opt out.)	Within 30 calendar days after issuance of notice.
11. All parties to complaint develop evidence and send it to EEOC. Complaints examiner may direct investigation.	Within 60 calendar days after notification by the EEOC complaints examiner.
12. Informal resolution, attempted by class agent and Army.	
13. If no resolution, hearing by EEOC complaints examiner.	
14. EEOC complaints examiner's findings and recommendations forwarded to EEOCCRA.	
15. Final Army decision. Agent informed of right to appeal to EEOC and file civil action in Federal District Court.	Within 30 calendar days after receiving complaints examiner's report. If no decision within 30 calendar days, then the complaints examiner's findings and recommendations become the final Army decision.
16. All class members notified of the final Army decision by EEO officer.	Within 10 calendar days.
17. Individual class members may file written claim.	Within 30 calendar days after Army decision. Persons must have been affected no more than 135 calendar days before filing of class complaint.
18. Army tries to resolve claim at activity level.	Within 60 calendar days after date claim filed.
19. Hearing held by EEO complaints examiner if no resolution.	
20. Complaints examiner's report of finding and recommendations forwarded to Army EEOCCRA.	
21. Final Army decision made by Secretary of the Army or his/her designee.	Time limits as in step 15.
22. Appeals and Civil Action Rights:	
a. Class agent may appeal to EEOC when—	Within 15 calendar days after the Army decision.

Table 3–1
Steps in class complaints of discrimination—Continued

Action	Time Limits
(1) Complaint rejected or cancelled by the Army.	
(2) Army refuses to reinstate complaint for processing after agent alleges that Army has not carried out terms of resolution.	
(3) Army issues decision on merits of complaint or corrective action.	
b. Claimant may appeal to EEOC when—	
(1) Army rejects claim for individual relief.	
(2) Army decides on adjustment of claim for individual relief.	
c. Class agent and claimants may file a civil action when—	
(1) Army issues final decision on complaint or claim.	Within 30 calendar days.
(2) There has been no Army decision on complaint or claim.	After 180 calendar days from date of filing formal complaint or claim with Army.
(3) EEOC issues decision on appeal.	Within 30 calendar days.
(4) Appeal was made to EEOC and no decision has been given.	After 180 calendar days from date of filing formal complaint or claim with EEOC.

Note:
In age discrimination complaints, an agent must appeal the Army decision to the EEOC before filing a civil action in Federal District Court.


90 days
Incident giving rise to complaint
Agent contacts EEO counselor
30 days counseling
Counseling is terminated
within 15 days
Formal complaint filed with the Army
10 days
Complaint forwarded to EEOC
EEOC
EEOC complaints examiner recommends acceptance, rejection, or cancellation of class action
10 days
Army accepts, rejects of modifies EEOC decision ---- class agent may appeal to ----
15 days EEOC
30 days U.S. District Court
15 days
Army notifies class members
30 days
Class members may opt out
60 days
Parties develop evidence for EEOC complaints examiner
EEOC
Hearing
Record forwarded with findings and recommended decision on class issue(s)
30 days
Final agency decision ----------
15 days EEOC
30 days U.S. District Court
10 days
Agency notifies class members
within 30 days
Class members may file claims for individual relief with agency
60 days claims resolved
If unresolved, agency forwards file to complaints examiner
hearing
EEOC send findings and recommendations to agency
30 days
Final agency decision ----------
Case closed
15 days appeal to EEOC
30 days appeal to U.S. District Court

Notes:

1. In age discrimination complaints, an agent must appeal the Army decision to the EEOC before filing in Federal District Court.

2. All "days" refer to calendar days.

Figure 3-1. Procedural steps in a class action discrimination complaint.

Chapter 4
Miscellaneous Complaints

4–1. Reprisal

A complainant, his or her representative, a witness, or an EEO official may allege restraint, interference, coercion, discrimination, or reprisal at any stage in the presentation or processing of a complaint of discrimination. An allegation of reprisal may be processed under this regulation, a negotiated grievance procedure where applicable, or the appellate provisions of the MSPB (mixed case).

4–2. Mixed cases

a. A mixed case complaint is either—

(1) A complaint of employment discrimination or reprisal filed under this regulation, related to or stemming from an action taken by the Army against the complainant, which action may be appealed to the MSPB pursuant to any law, rule, or regulation.

(2) A complaint of sex-based wage discrimination filed with the EEOC, related to or stemming from an action taken by the Army against a complainant, which may be appealed to the MSPB, pursuant to any law, rule, or regulation.

b. Examples of actions appealable to the MSPB are removals, suspensions for more than 14 days, reductions in grade (demotion), reductions in force, denials of within-grade increases, and furloughs for 30 days or less.

c. Mixed case appeals.

(1) A mixed case appeal is an appeal filed with the MSPB which alleges that an Army action resulted, in whole or in part, because of discrimination on the basis or race, color, religion, sex, national origin, mental or physical handicap, age, and/or reprisal, or alleges that such Army action resulted in sex-based wage discrimination.

(2) If an employee files an appeal with the MSPB on a mixed case, before filing a formal complaint of discrimination with the Army, the Army activity must reject or cancel any complaint on the same matter, regardless of whether the allegation of discrimination is raised in the appeal to the MSPB. Upon such rejection or cancellation, the Army activity must advise the employee to raise the allegation of discrimination in connection with his or her appeal to the MSPB. If the employee first files a formal complaint with the Army under this regulation, before filing an appeal on the same matter to MSPB, the Army must advise the MSPB and request that it dismiss the appeal without prejudice. The Army, thereafter, shall process the complaint in a manner similar to any other complaint, except that there will be no hearing before the EEOC and the complainant's appeal rights will be to the MSPB, not to the EEOC.

d. Election. A mixed case complaint may be presented initially as a discrimination complaint under this regulation or under a negotiated grievance procedure, if applicable, or as part of an appeal to the MSPB as set forth in FPM Supplement 990–1, MSPB regulations, or section 1201, title 5, Code of Federal Regulations (5 CFR 1201). Employees who wish to appeal must choose the system under which they wish to proceed. Whichever formal action the employee files first is considered an election to proceed in that forum as to the alleged discrimination. The Army will inform every employee who is the subject of an action which is appealable to the MSPB, of the right to file a mixed case complaint with the Army, or to file a mixed case appeal with MSPB if the employee has raised the issue of discrimination during the processing of the personnel action but prior to the decision to effect that personnel action.

e. Timely processing. A mixed case complaint will be processed in a timely manner, so that the final Army decision is issued within 120 calendar days from the date the complaint was filed.

f. Processing complaints on proposals.

(1) Any complaint filed in connection with an Army proposal to take an action that is appealable to the MSPB will be consolidated with any subsequent mixed case complaint filed in connection with the Army's decision to take such an action, either as proposed or as modified during the processing of the proposal.

(2) If, following a complaint on a proposal, the complainant files an appeal with the MSPB on the subsequent Army decision resulting from that proposal, the EEO officer will cancel the complaint on the proposal. The complainant will be advised by the EEO officer that any allegations of discrimination contained in that complaint should be raised with the MSPB in connection with the pending appeal.

(3) When a complaint concerning a proposal to take an action appealable to the MSPB is combined with a mixed case complaint concerning an Army decision appealable to the MSPB, the 120-calendar-day time frame for processing the consolidated complaint begins as of the date the complaint concerning the Army decision is filed.

(4) When a complaint is filed on a proposal, and no appeal or complaint is filed with the MSPB or the Army on the subsequent appealable Army decision resulting from that proposal, the complaint on the proposal will include the final appealable Army decision as an issue. The 120-calendar-day time frame

will begin as of the effective date of the final appealable decision.

g. Mixed case advise. Sample language advising complainants of their rights under mixed case procedures is at appendix D. In age discrimination complaints, a complainant must appeal the Army decision to the EEOC or MSPB before filing a civil action in a Federal District Court.

4–3. Negotiated grievance procedure

A complainant who is covered by a collective bargaining agreement may file allegations of discrimination or reprisal under the negotiated grievance procedure instead of filing under this regulation. The complainant has this grievance option if the negotiated grievance procedure does not exclude allegations of discrimination or reprisal. When using the negotiated grievance procedure, a complainant is bound by the negotiated agreement.

4–4. Election of forum

a. In a mixed case, the complainant may initially choose either the individual complaint procedure as described in chapter 2 of this regulation, appeal to the MSPB, or use the negotiated grievance procedure. The rules for choosing the procedure are not the same in all situations. An election will have been made when the following actions occur:

(1) An MSPB appeal will not be accepted if a timely discrimination complaint or a grievance under the negotiated procedure has been filed in writing.

(2) A discrimination complaint will not be accepted if a timely appeal to the MSPB or a timely grievance under the negotiated procedure has been filed in writing.

(3) A grievance under the negotiated procedure will not be accepted if a timely appeal to the MSPB has been filed in writing or if the complainant has initiated timely action under chapter 2 of this regulation. If the negotiated grievance procedure is used, the employee may ask the MSPB to review the final decision made under the negotiated procedure. (See para 4–5.)

b. In a matter involving discrimination covered by the negotiated grievance procedure, but not appealable to the MSPB, the complainant may choose either the complaint procedure as described in chapter 2 or use the negotiated grievance procedure.

(1) The choice is made when a timely grievance is filed in writing under a negotiated procedure or when the employee files a formal complaint under chapter 2.

(2) An employee who chooses the negotiated grievance procedure may ask the EEOC to review the final decision made under that negotiated procedure. (See para 4–5.)

4–5. Final decision under the negotiated grievance procedure

For seeking review by the EEOC or the MSPB, a final decision under the negotiated grievance procedure is defined as one of the following:

a. The final grievance decision rendered by the activity, if the union fails to invoke arbitration of the grievance (an employee cannot individually invoke arbitration.)

b. The award rendered by an arbitrator, if neither the union nor management files an exception to the award with the Federal Labor Relations Authority (FLRA) (an employee cannot individually appeal an arbitration award to the Authority) or an arbitrator's award that cannot be appealed to the FLRA.

c. The decision of the FLRA on appeal of an arbitration award.

4–6. General allegations of discrimination

General allegations of discrimination made by persons and special interest organizations, that are not within the scope of individual or class complaints, will be promptly answered by the Activity Commander or a designee. A copy of the response to the general allegation will be sent to the MACOM EEO officer and the Director of EEOCCRA.

Chapter 5
Remedial Actions

5–1. General guidance

a. Upon a finding of discrimination, a complainant is entitled to remedial action that makes him or her whole unless the record establishes by clear and convincing evidence that the action complained of would have occurred even absent the identified discrimination. The aim of remedial action is to "make the complainant whole" or, to place the complainant in the situation he or she would be in if there had been no discrimination. Attorney fees and/or costs may also be awarded as outlined in paragraph 5–4. Remedial action may include—

(1) Retroactive appointment or promotion with back pay.

(2) An opportunity for the complainant to have the benefit that had been denied, such as training, overtime scheduling, detailing, or other employment benefits.

(3) Cancellation of an unwarranted personnel action and expunction from the Army's records of any reference to, or any record of, an unwarranted disciplinary action that is not a personnel action.

b. Corrective action may also be taken to change or eliminate personnel policies or practices and to take disciplinary action against ADOs. Disciplinary action against an ADO is not a personal remedy that may be requested by a complainant. It is, therefore, not an issue for decision in a hearing or inquiry and is not to be specified in a decision on the complaint.

c. The Army may also resolve complaints informally and award back pay and other remedial relief including attorney fees and/or costs without a finding of discrimination. The monetary award in such settlements, however, may not exceed the maximum backpay or other amount that would be recoverable under this regulation if a finding of discrimination had been made. The requirements of paragraphs 2–9*d* and *e* and 5–5 apply to such settlements.

5–1. Remedial action involving an applicant

Upon a finding of discrimination, the Army will offer the applicant the position denied him or her or employment of the type and grade denied him or her, unless the record contains clear and convincing evidence that the applicant would not have been hired even without discrimination. The remedial relief available to the applicant will conform to the following guidance:

a. The offer is made in writing, giving the applicant 15 calendar days from receipt to accept or decline the offer. Failure to notify the Army of a decision within the 15-day period will be considered a declination of the offer, unless the applicant can show that circumstances beyond his or her control did not permit responding within the time limit.

(1) If the offer is accepted, the appointment is retroactive to the date the applicant would have been hired, subject to the limitation in *b* below. Back pay is awarded from the beginning of the retroactive period, subject to the same limitation, until the date the person actually enters on duty. The applicant is deemed to have worked for the Army during the [retroactive] period for all purposes except for meeting service requirements for completion of a probationary or trial period as required.

(2) If the offer is declined, the Army awards the applicant a sum equal to the back pay he or she would have received. Back pay will be computed from the date he or she would have been appointed until the date the offer was made, subject to the limitation of *b* below. The Army informs the applicant, in its offer, of his or her right to this award if the offer of employment is declined.

b. Back pay may not accrue from a date earlier than 2 years before the date the complaint was initially filed by the applicant.

c. If the Army or a Federal Court finds that discrimination existed at the time the applicant was considered for employment, but also finds clear and convincing evidence that the applicant would not have been hired even without discrimination, the Army will consider the applicant for any existing vacancy of the type and grade for which he or she was considered initially and is qualified, before considering other candidates. If the applicant is not selected, the reasons for nonselection are recorded and made a part of the complaint file. If there is no vacancy, the Army gives the applicant priority consideration for the next vacancy for which he or she is qualified. This will take precedence over other priorities.

5–3. Remedial action involving an employee

Upon a finding of discrimination, the Army will take remedial actions that may include one or more of the following:

a. Retroactive promotion. A retroactive promotion or assignment with back pay to the position denied the employee or an equivalent position may be provided as a remedy unless the record contains clear and convincing evidence that the employee would not have been promoted or employed at a higher grade even without discrimination. The back pay liability may not accrue from a date earlier than 2 years before the date the discrimination complaint was filed; however, in no case will the back pay liability

accrue from a date before the earliest date the complainant could have been promoted.

b. Priority consideration. A first consideration action (in connection with an initial hire, reassignment, or promotion) before other applicants or candidates are considered.

c. Cancellation. Cancellation of an unwarranted personnel action and restoration of the employee.

d. Deletion. The deletion from Army records of any reference to, or any record of, an unwarranted disciplinary action.

e. Participation. Full opportunity to participate in the benefit denied complainant (for example, training or preferential work assignments).

5–4. Award of attorney fees and/or costs

a. In complaints of discrimination, the Army or a Federal Court may award the applicant or employee who is represented by an attorney reasonable attorney fees and/or costs as a part of the remedial relief under this regulation. Except as provided in paragraph 5–5, Army decisions will make such awards only when a finding or admission of discrimination is made. The award of attorney fees and/or costs is not available in administrative cases of discrimination based on age.

b. Attorney fees are paid only for services performed after a formal complaint has been filed under this regulation and after the complainant has notified the Army that he or she is represented by an attorney. However, the attorney may be compensated for a reasonable amount of time spent to make the decision to represent the complainant. Written submissions to the Army that are signed by the attorney shall be deemed to constitute notice of representation. Attorney fees are allowable only for services of members of the bar and law clerks, paralegals, or law students supervised by members of the bar. No award will be made for the services of any employee of the Federal Government. Attorney fees and/or costs are paid by the activity where the discrimination took place. Requests for attorney fees and/or costs will include all of the following:

(1) A statement of the number of hours spent in preparing and presenting the case. This must specify the dates that work was done on the case and detail the work performed. It must also describe the training and experience of each person who worked on the case and the number of hours spent by each.

(2) A sworn statement of the attorney's usual and customary hourly charge, and the usual fee for each person who worked on the case.

(3) A sworn statement explaining all of the following:

(*a*) Whether the fee for the case was fixed or contingent.

(*b*) Whether the handling of the case prevented other employment.

(*c*) The nature and length of the professional relationship with the client.

(*d*) Any other factors that might affect the amount of the award.

(4) Sworn statements by other attorneys or the local bar association in the relevant geographic area, who work in employment discrimination, setting forth all of the following:

(*a*) The customary fee for such work.

(*b*) The desirability of the case.

(*c*) Awards in similar cases.

(*d*) The reputation, ability, and experience of the attorney requesting the fees.

(5) Other information in the form required by courts in the awarding of attorney fees and costs.

c. The complainant and his or her representative, if any, files a verified statement of attorney fees and/or costs as described in *b* above with the activity EEO officer within 20 days of receipt of the decision. The EEO officer will immediately submit the request and supporting documents to the activity labor counselor for review and recommendation. The labor counselor will review and analyze in writing the request and supporting documents in accord with relevant judicial requirements and all the following:

(1) Attorney fees.

(*a*) The time and labor required.

(*b*) The novelty and difficulty of the questions.

(*c*) The skill requisite to perform the legal service properly.

(*d*) The preclusion of other employment by the attorney due to acceptance of the case.

(*e*) The customary fee.

(*f*) Whether the fee is fixed or contingent.

(*g*) Time limitations imposed by the client or the circumstances.

(*h*) The amount involved and the results obtained.

(*i*) The experience, reputation, and ability of the attorney.

(*j*) The undesirability of the case.

(*k*) The nature and length of the professional relationship with the client.

(*l*) Awards in similar cases.

(2) Costs (as authorized by section 1920, title 28, United States Code (28 USC 1920)).

(*a*) Fees of the reporter for all or any of the stenographic transcripts necessarily obtained for use in the case.

(*b*) Fees and disbursements for printing and witnesses.

(*c*) Fees for exemplification and copies of papers necessarily obtained for use in the case.

(*d*) Witness fees will be awarded in accord with the provisions of 28 USC 1821, except that no award will be made for a Federal employee who is in a duty status when made available as a witness.

d. If the complaint is resolved at the activity, with a finding of discrimination, the Activity Commander or his or her designee, in consultation with the EEO officer and the labor counselor, is authorized to award attorney fees and/or costs provided agreement is reached on the amount of fees and/or costs and the amount is less than $5,000. In cases where agreement cannot be reached, or where the amount is $5,000 or more, the final award will be made by the Secretary of the Army or his or her designee. If the parties agree that attorney fees should not be awarded, the settlement agreement should include an explicit waiver of the complainant's right to seek fees.

e. If the activity cannot reach a settlement on the fees and/or costs or the amount requested is $5,000 or more, the activity labor counselor will review the amount claimed and make a recommendation. This recommendation will be sent through the Labor and Civilian Personnel Law Office, Office of the Judge Advocate General, ATTN: DAJA-LC, WASH 20310-2209, for final decision by the Secretary of the Army or his or her designee as follows:

(1) If agreement is not reached at the activity within 20 calendar days after receiving the verified statement, upon receipt of the labor counselor's recommendations, the Secretary of the Army or his or her designee will issue a written final Army decision to the complainant on the amount of fees and/or costs.

(2) The decision should be issued within 30 calendar days after receipt of the verified statement.

(3) The decision will give specific reasons for the amount of the award and state the complainant's right to appeal the decision to EEOC or file a civil action in a Federal District Court.

f. If the complaint of discrimination is resolved on the merits by a decision of the Secretary of the Army or his or her designee, the award of attorney fees and/or costs must also be made by the Secretary of the Army or his or her designee in accord with the procedures outlined in *e* above.

g. All payment of attorney fees and/or costs will be made payable jointly to the complainant and the attorney of record.

5–5. Informal no-fault settlement

a. Informal settlements of complaints may be reached though the Army need not admit fault, wrongdoing, or discrimination provided that the ROI indicates some merit to the allegation of wrongful action.

b. The standard for informal settlement awards is stated in paragraph 5–1(*c*).

c. The Activity Commander, or his or her designee, in consultation with the EEO officer and the labor counselor, has authority to award attorney fees and/or costs as part of an informal settlement if agreement is reached between the parties and the amount to be awarded is less than $5,000. If the parties do not reach agreement, or the amount is $5,000 or more, the final award will be made by the Secretary of the Army or his or her designee.

Chapter 6
Appeals and Civil Actions

6-1. Appealing an Army decision

a. A complainant in an individual complaint of discrimination or a class agent in a class complaint may appeal to the EEOC Office of Review and Appeals, 2401 E Street, NW, WASH DC 20507, the Army decision—

(1) To reject or cancel the complaint in whole or in part.

(2) To refuse to reinstate the complaint for further processing.

(3) On the merits of the complaint, the issue of attorney fees and/or costs, or the remedial action.

b. A claimant in a class complaint may appeal to the EEOC Office of Review and Appeals, 2401 E Street, NW, WASH DC 20507, the Army decision—

(1) To cancel or reject a claim for individual relief.

(2) On the merits of the claim for individual relief or the issue of attorney fees and/or costs.

c. Except as provided in *f* below, a complainant in an individual complaint of discrimination may file a notice of appeal with the EEOC any time after receiving the Army Notice of Final Decision on his or her complaint but not later than 20 calendar days after receiving the decision. A notice of appeal will be deemed filed on the date it is postmarked or, without a postmark, on the date it is received by the EEOC. Any statement or brief to support the appeal must be sent to the EEOC and to EEOCCRA, ATTN: SFCR, WASH DC 20310-1813, within 30 calendar days after the date the notice of appeal was filed.

d. On receiving the complainant's statement or brief, EEOCCRA will ask the activity to send management comments and copies of the case file. These comments must be coordinated between the activity EEO officer, labor counselor, and CPO, and must be received by EEOCCRA early enough for EEOCCRA to meet the EEOC suspense date. Comments will be prepared in a format that will permit forwarding to EEOC without editing or retyping.

e. Except as in *f* below, an agent or a claimant in a class complaint may file an appeal at any time after receiving a final Army decision, but not later than 15 calendar days after receiving the decision. An appeal will be deemed filed on the date it is postmarked or, without a postmark, on the date it is received by the EEOC.

f. Usually, the time limits for filing a notice of appeal will not be extended by the EEOC. However, the EEOC, at its discretion, may extend the time limits and accept an appeal based on a written statement by the complainant. The statement must show that the complainant was not notified and not otherwise aware of the prescribed time limits, or that circumstances beyond his or her control prevented filing a notice of appeal or an appeal within the prescribed time limits.

g. The EEOC Office of Review and Appeals reviews the complaint file and all relevant written representations made by the parties. The office may return the complaint to the Army for further investigation or for a new hearing, or may have an EEOC investigator look into the case. The office issues a written decision that sets forth its reasons for the decision and sends copies of the decision to the complainant, the designated representative and EEOCCRA. EEOCCRA will send the decision to the activity. If corrective action is ordered, the activity must take the action. The activity will promptly report to the EEOC compliance officer, with copies to the complainant, the MACOM, and EEOCCRA, that the action has been taken.

h. For purposes of an appeal to the EEOC, the Army decision is final only when all issues in the complaint, including the award of attorney fees and/or costs, have been resolved. If fees and/or costs are to be awarded, the decision will not be final until the procedure for determining the amount of the award has been completed.

6-2. Review by the EEOC commissioners

a. The EEOC commissioners may, at their discretion, reopen and reconsider any previous decision when the requesting party files written argument or evidence that tends to establish one or more of the following:

(1) New and material evidence is available that was not readily available when the previous decision was issued.

(2) The previous decision involves an erroneous interpretation of law or regulation or a misapplication of established policy.

(3) The previous decision may set a precedent involving a new or unreviewed policy consideration that may have effects beyond the case at hand or, is otherwise of such an exceptional nature as to merit the special attention of the Commission.

b. A copy of any statement or brief in support of a request to reopen and reconsider must be submitted to the EEOCCRA as well as to the activity EEO officer.

c. An Activity Commander or a designee who wishes to request reopening will consult the labor counselor to determine if the request meets the requirements of this paragraph. If so, the commander

will send the request to EEOCCRA for action. Any Army request to reopen and reconsider must be made within 30 days of the date of the EEOC Office of Review and Appeals decision.

(1) The request will be fully self-contained and will explain how the criteria of *a* above applies to the case. It will be prepared to show an Army position rather than a local position and will be typed on plain bond paper.

(2) The request will be sent to EEOCCRA as early as possible but not later than 7 work days before the 30-calendar-day time limit for requesting reopening and reconsideration expires.

(3) The request to reopen and reconsider will be prepared in a format that will permit forwarding to EEOC without editing or retyping.

(4) EEOCCRA will check the submission for consistency with the case file and, if otherwise proper, will obtain approval from the Director of EEO.

(*a*) An Army request to reopen and reconsider may be submitted to EEOC only if approved by the Director of EEO.

(*b*) Approval will be granted only when the Director of EEO finds that the submission is timely, meets EEOC criteria, and is in the best interest of the Army. Approval will not be granted routinely.

6–3. Civil actions

a. A complainant in an individual complaint or an agent in a class complaint has the right to file a civil action in a Federal District Court. Time limits for filing, except for complaints based on age (see *b* below), are as follows:

(1) Within 30 calendar days after receiving the notice of the final Army decision on the complaint or claim.

(2) After 180 calendar days from the date of filing a complaint with the Army if there has been no decision.

(3) Within 30 calendar days after receiving the notice of the final EEOC decision on the complaint.

(4) After 180 calendar days from the date of filing an appeal with the EEOC if the EEOC has not made a decision.

b. In complaints alleging age discrimination, the complainant can file a civil action in Federal District Court 30 days after providing notice to the EEOC of his or her intent to file a civil action. Such notice must be given to the EEOC within 180 days of the occurrence of the alleged discriminatory act. If a complainant elects to pursue his or her age complaint through the administrative procedures outlined in chapter 2, then he or she may not file a civil action in Federal District Court until all administrative remedies (including an appeal of the final Army decision to the EEOC) have been exhausted.

c. All Army decisions must notify the complainant of the right to file a civil action and of the time limits for doing so. For civil action purposes, the Army decision is final only when a determination has been made on all the issues in the complaint, including whether or not to award attorney fees and/or costs. If attorney fees and/or costs are to be awarded, the decision will not be final until the procedure outlined in chapter 5 for determining the amount of the award has been followed.

d. The labor counselor will inform the activity EEO officer and the EEOCCRA (ATTN: SFCR, WASH DC 20310–1813) when litigation is initiated on any EEO complaint. The following will be provided:

(1) EEOCCRA docket number.
(2) Federal Court docket number.
(3) Federal Court where the suit has been filed.
(4) Date of filing.
(5) Copy of Federal Court complaint.
(6) Date suit terminated.
(7) Copy of court order terminating suit.

Chapter 7
Participation by the Alleged Discriminating Official

7-1. General guidance

a. The purpose of the discrimination complaint procedure is to determine whether discrimination has occurred so that appropriate remedial action can be taken. Investigations and hearings in discrimination complaint cases are essentially fact-finding processes. Their purpose is to develop and record evidence on which an informed and impartial decision can be based. It is not the purpose of the complaint procedure to try individual officials. Complaints are lodged "against" the Army, not "against" individuals.

b. Employees and applicants must be free to avail themselves of the discrimination complaint procedures without fear of reprisal. However, ensuring these rights of complainants is not done without regard for the rights of persons against whom allegations of discrimination have been made. Persons, named or otherwise, identified as ADOs have clearly defined rights and a significant role in the complaint process.

c. A complainant cannot always be expected to know which person, if any, might have been responsible for a specific action or policy. Therefore, a complainant must not be required to identify ADO(s) in complaints of discrimination, but may do so if he or she believes particular persons have discriminated against him or her.

d. The Army must ensure that persons named as ADOs are informed of all allegations made against them and are given a full and fair opportunity to respond to these allegations.

7-2. The ADO at the informal stage

a. At the informal counseling stage, the EEO counselor must solicit the views of an identified ADO unless the counselor obtains and provides information which clears the official to the satisfaction of the aggrieved person.

b. Before the counselor interviews the ADO, the ADO must be told that he or she has been identified as a potential ADO. The ADO must be informed of the nature of any allegations made and must be told of the right to have a representative at the interview to advise him or her on how to respond to any questions the counselor may ask.

c. The counselor must not reveal the identity of the aggrieved person when the aggrieved person has not authorized him or her to do so.

7-3. The ADO during the USACARA investigation

a. The USACARA investigator must give an ADO the opportunity to respond to all allegations made against him or her and to review all documents that name or implicate the ADO and are to be included in the investigative file. Names and other identifying information of persons other than the complainant and the ADO will be deleted by the investigator from the copies shown to the ADO to protect these persons from an unwarranted invasion of their privacy. The investigator must also advise the ADO of his or her right to have a representative present.

b. The investigator must give the ADO full opportunity to state the facts as he or she understands them, in affidavit form, for inclusion in the investigative file, and to name witnesses who might be questioned. The investigator must inform the ADO that only witnesses whose testimony is considered necessary to the investigation will be interviewed. Also, the investigator must tell the ADO that only testimony to be obtained in affidavit form and included in the investigative file is that which the investigator deems relevant and necessary to the investigation.

c. The activity EEO officer must keep the ADO informed of the progress of the investigation. When the investigation is completed, the EEO officer must review the investigative file to ensure that the ADO has had the opportunity to provide his or her version of the facts in response to each allegation. If the file shows that the ADO was not given this opportunity, the EEO officer will return the case file to USACARA for appropriate action.

7-4. Informal adjustment and proposed disposition

a. The Activity Commander or a designee may, at his or her discretion, consult with the ADO on the terms under which the activity will try to informally resolve the complaint.

b. If an informal adjustment is agreed upon, the Activity Commander or his or her designee must inform the ADO of the terms of the agreement.

c. If an agreement is not reached, the Activity Commander or a designee will give the ADO a copy of the proposed disposition.

7-5. The ADO at a hearing

a. The ADO has the right to testify at the hearing and comment for the record on any allegations against him or her including new allegations made at the hearing. If the ADO has not been called to testify, the activity EEO officer must tell the ADO how and where to contact the labor counselor and the hearing examiner to arrange to testify or com-

ment.

b. The presence of the ADO and his or her representative, if any, at the hearing is limited to the time the ADO appears as a witness.

7–6. The final Army decision

a. If the final Army decision finds discrimination, the Activity Commander or his or her designee will review the entire file and determine whether disciplinary action against the ADO is appropriate and record the basis for its decision. The decision shall be included in the complaint file. If the decision is to take disciplinary action, the entire complaint file will be made available to the ADO for review. If no disciplinary action is taken against the ADO after a finding of discrimination, the complaint file will be made available to the ADO for review but names and identifying information of persons other than the complainant and the ADO will be deleted from the file. This action will be taken to protect such persons from an unwarranted invasion of privacy.

b. If the activity takes or proposes adverse or other corrective action against the ADO based on the evidence developed in processing the complaint, the Activity Commander or his or her designee will make the entire complaint file, without deletions, available to the ADO for review. Corrective action may include requiring the ADO to complete EEO training or temporarily or permanently withdrawing the ADO's selection or disciplinary authority. Though not disciplinary, such actions constitute censure and correction of the ADO's conduct or performance.

c. If the final decision concludes there was not discrimination, the Activity Commander or his or her designee will give the ADO a copy, sanitized in accord with *a*, above, of the final Army decision only.

7–7. Appeals to the EEOC

If a complainant appeals the Army decision to the EEOC Office of Review and Appeals, the EEO officer must give the ADO a copy of the EEOC decision. If the decision of the EEOC reverses or modifies the Army decision with a finding of discrimination, the EEO officer will make the complaint file available to the ADO.

7–8. Representing the ADO

a. The ADO has a right to have a representative present to advise him or her any time when the ADO must provide information during the complaint process. This includes the informal stage, the investigation, and the hearing.

b. The role of the ADO representative at all stages of the EEO complaint process is limited to advising the ADO on how to respond to questions. The representative does not have the right to examine and cross-examine witnesses at the EEOC hearing (as may be done by the complaints examiner and the representatives of the complainant and the Army) because the ADO is not a party to the complaint.

7–9. The ADO's role in class complaints of discrimination

The principles and procedures in this chapter on the ADO's role in individual complaints of discrimination also apply to class complaints.

7–10. Conflicts of interest

When a person involved in the EEO complaint process (for example, EEO officer, Activity Commander, MACOM EEO officer) is named as an ADO, the procedures below will be followed in order to avoid a possible conflict of interest:

a. EEO officer. If an EEO officer is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, that officer's function in the processing of that complaint will be performed by the EEO officer at the next higher level. If the EEO officer is named as an ADO merely by virtue of his or her position, then he or she may continue to process the complaint.

b. Activity Commander. If an Activity Commander is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, that commander's function in the processing of that complaint will be performed by the commander at the next higher level. If the Activity Commander is named as an ADO merely by virtue of his or her position, then he or she may continue to process the complaint.

c. Staff Judge Advocate (SJA). If the SJA or senior legal officer of the servicing legal office is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, legal advice to the command in the processing of that complaint will be provided by the servicing legal office of the next higher level of command. If the SJA or senior legal officer is named as an ADO merely by virtue of his or her position, then he or she may continue to provide advice on the complaint.

d. Civilian Personnel Officer (CPO). If the CPO is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, the CPO at the next higher level of command will provide personnel advice to the command in the processing of that complaint. If the CPO is named as an ADO merely by virtue of his or her position, then he or she may continue to provide

personnel advice on the complaint.

e. MACOM EEO officer. If a MACOM EEO officer is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, that officer's function within the processing of that complaint will be performed by a special EEO officer designated by the MACOM commander. If the MACOM EEO officer designated by the MACOM commander. If the MACOM EEO officer is named as an ADO merely by virtue of his or her position, then he or she may continue to process the complaint.

f. MACOM commander. If a MACOM commander is named as an ADO in a particular discrimination complaint based on actions he or she has taken against the complainant, that commander's function within the processing of that complaint will be performed by the Vice Chief of Staff of the Army. If the MACOM commander is named as an ADO merely by virtue of his or her position, then he or she may continue to process the complaint.

g. Director of EEO/Secretary of the Army. If the Secretary of the Army or the Director of EEO is named as an ADO in a discrimination complaint based on actions he or she has taken against the complainant, the Secretary of the Army will designate a DA official to perform the functions of the official named as an ADO. If the Secretary of the Army or the Director of EEO is named as an ADO merely by virtue of his or her position, then he or she may continue to process the complaint.

Chapter 8
Witnesses, Representation, Administrative Procedures, and Reports

8–1. Arranging for witnesses

a. Army military and civilian personnel requested as witnesses by the EEO officer, the investigator, or the EEOC complaints examiner will be made available unless it is administratively impractical. If a needed Army witness is not under local administrative control, the Activity Commander or the EEO officer may ask the witness' commander to make that person available. Denials will be promptly referred to the EEO officer of the next higher level command of the requested witness. If the denial is not justified, the next higher level command will direct the organization to make the witness available.

b. If a needed witness is employed by another Federal agency or has left Federal employment, he or she will be contacted by the EEO officer. The EEO officer will make very reasonable effort to ensure the presence of the witness. If the witness refuses to appear, the EEO officer will refer the matter to the investigator or the complaints examiner.

c. A Federal employee is in an official duty status when he or she appears as a witness or is required to provide a statement under oath or affirmation.

8–2. Complainant's and class agent's representative

a. A complainant or an agent in a class complaint has the right to be accompanied, represented, and advised by a representative of his or her own choice at any stage of the complaint process, including the informal counseling stage. No employee or military member is obligated to serve as a representative.

b. The complainant or the class agent will designate the representative in writing. Any change will be reported in writing to the EEO officer, with copies to the counselor, investigator, or complaints examiner, as appropriate.

c. The Army must be notified when an attorney is retained to represent a complainant or class agent. Written submissions to the Army that are signed by the representative are deemed to constitute notice of representation. This notice is required to establish the attorney's eligibility to claim fees and/or costs.

d. After consulting with the SJA or senior legal officer of the servicing legal office, the Activity Commander or his or her designee may deny permission to an Army employee or military member to serve as a representative if this would constitute a conflict of interest. This denial will be made in a letter to the complainant stating the reasons. The letter must tell the complainant that an appeal of the denial may be filed with the EEO officer within 5 work days after receipt of the denial. The denial and the appeal are then sent immediately to the Director, EEOCCRA, ATTN: SFCR, WASH DC 20310–1813, for decision.

8–3. Representing the Army in individual complaints

a. The Army is represented in complaint proceedings by the labor counselor (a judge advocate or a civilian attorney from the SJA or legal office). The labor counselor's role is to ensure that the Army's position is based on a sound legal theory and supported by competent evidence at both the investigative and hearing stages. The labor counselor does not represent the ADO.

b. The labor counselor may have a CPO technical adviser at the hearing.

8–4. Representing the Army in class complaints

a. The EEO counselor may seek legal advice from the servicing legal office during the informal stage of class discrimination complaints after consulting with his or her EEO officer.

b. When an individual or class complaint is filed formally, the Activity Commander will appoint an Army judge advocate or civilian attorney as the labor counselor to represent the Army at the activity level as described in chapters 2 and 3.

8–5. Using official time

Under 29 CFR 1613.214, complainants, agents, and representatives who are Army employees have the right to a reasonable amount of duty time to prepare and present a complaint filed under this regulation. Employees must arrange in advance with their supervisors to use this duty time. Disagreements as to what is "reasonable" time are resolved by the Activity Commander or a designee. "Reasonable duty time" includes all time actually spent in meetings and hearings required by an Army or EEOC official plus a reasonabale amount of preparation time. Reasonable time for preparation purposes is generally defined in terms of hours rather than days, weeks, or months.

8–6. Hearing arrangements

a. Expenses incurred in the administrative processing of an EEO complaint will be borne by the activity against which the complaint is lodged.

b. The servicing activity EEO officer will ensure that a court reporter is provided for the hearing and that the transcripts are sent directly to the EEOC complaints examiner. Use of Army employees to

transcribe hearings is prohibited by the EEOC. However, interservice support agreements with the Navy and Air Force may be used instead of contracting for such services.

c. All requests to the EEOC for a hearing will contain instructions that the completed case file, with all copies of the transcript and the complaints examiner's recommended decision is to be sent to the Director, EEOCCRA, ATTN: SFCR, WASH DC 20310–1813. If the examiner erroneously transmits the case file to the activity EEO officer, the case must be returned immediately to EEOC by registered mail with instructions for transmission to the Director, EEOCCRA.

8–7. Complaint file

a. The EEO officer will compile a complaint file that will include all documents pertinent to the complaint except for the Army decision regarding action against the ADO.

b. The file will not contain any document that has not been made available to the complainant or his or her representative.

c. The file will be indexed. The file will also be tabbed in reverse chronological order and will contain legible copies of the following documents, when applicable, and in the order listed below:

(1) Tab O.

(*a*) EEO Complaint Data Sheet: DA Form 5493–R (Individual Complaint Data Sheet) or DA Form 5494–R (Class Complaint Data Sheet).

(*b*) Complaint Chronology Sheet: DA Form 5495–R (Chronology of Individual EEO Complaint) or DA Form 5496–R (Chronology of Class EEO Complaints).

(*c*) DA Form 5497–R (Disposition of Complaint of Discrimination).

(2) Tab N.

(*a*) Final Army decision.

(*b*) Return receipt or other evidence of complainant's receipt of final Army decision.

(3) Tab M. EEOC complaints examiner's report of findings, analysis, and recommendations.

(4) Tab L. Verbatim transcript of EEOC hearing and all exhibits.

(5) Tab K. EEO officer's letter to EEOC requesting assignment of a complaints examiner.

(6) Tab J.

(*a*) Request for Army decision without a hearing.

(*b*) Request for hearing before EEOC.

(7) Tab I.

(*a*) Proposed disposition.

(*b*) Notice to complainant of adoption of proposed disposition as Army final decision if complainant has failed to respond within 15 days.

(8) Tab H.

(*a*) Record of adjustment conference.

(*b*) Settlement agreement if signed by all parties and documents showing implementation.

(*c*) Written withdrawal of complaint by complainant, if applicable.

(9) Tab G.

(*a*) Record of transmittal of USACARA ROI to activity.

(*b*) Record of transmittal of USACARA ROI to complainant.

(10) Tab F. Entire investigator's report including exhibits tabbed as received from the investigator.

(11) Tab E.

(*a*) EEO officer's request to USACARA for appointment of an investigator.

(*b*) USACARA response to EEO officer.

(*c*) EEO officer's notice to labor counselor of date, time, and location of USACARA investigation.

(12) Tab D.

(*a*) Appointment letter of labor counselor as Army representative.

(*b*) Written designation by complainant of his or her representative.

(13) Tab C.

(*a*) Formal EEO complaint, DA Form 2590–R.

(*b*) EEO officer's acknowledge receipt of the formal complaint.

(*c*) EEO officer's acceptance of the formal complaint.

(*d*) EEO officer's rejection or cancellation of the formal complaint.

(14) Table B.

(*a*) Notice of Final interview.

(*b*) EEO counselor's final report.

(*c*) 21-day letter, if applicable.

(15) Tab A. All allied papers (all documents relevant to the case but not specifically included in the above sections attached in reverse chronological order).

d. All EEOC appellate documents will be tabbed in reverse chronological order with Arabic numerals.

e. All civil litigation documents will be tabbed in reverse chronological order with Roman numerals.

f. When the complainant requests a decision by the Secretary of the Army or his or her designee on the basis of the record as it stands, or after a hearing, the original case file will be clearly indexed and tabbed as described in paragraph *c* above and all pages will be clearly legible.

(1) Every complaint file will contain an EEO complaint data sheet. See DA Form 5493–R for individual EEO complaints and DA Form 5494–R for class EEO complaints. The data sheet will be filled

out by the EEO counselor and the activity EEO officer. Any entry contrary to the provisions of this regulation should be explained by the responsible EEO official in the "Remarks" section of the data sheet. These DA Forms will be reproduced locally on 8½- by 11-inch paper. Copies for reproduction purposes are located at the back of this regulation.

(2) Every complaint file will contain an EEO chronology sheet completed by the activity EEO officer and the EEOCCRA. See DA Form 5495–R for individual EEO complaints and DA Form 5496–R for class EEO complaints. The chronology sheet will account for the processing time from the date of the alleged discriminatory action to the final Army decision and any administrative or judicial appeal. Failure to meet any administrative suspense established by this regulation should be fully explained in the "Remarks" section of this chronology sheet. These DA Forms will be reproduced locally on 8½- by 11-inch paper. Copies for reproduction purposes are located at the back of this regulation.

8–8. Complaints reporting

a. The EEO counselor will complete DA Form 5492–R at the time of the final interview and submit it to the EEO officer in accord with paragraph 2–2*d*. The EEO officer will transmit copies of this report to EEOCCRA and the MACOM of the activity against which the complaint is lodged upon termination of counseling.

b. Individual formal complaint reporting

(1) Immediately upon receipt of a formal EEO complaint (DA Form 2590–R), the activity EEO officer will complete and dispatch a copy of the formal complaint to the Director, EEOCCRA, ATTN: SFCR, WASH DC 20310–1813. Receipt of the complaint will be acknowledged, in writing, by EEOCCRA. The acknowledgement will contain a docket number assigned to the case by EEOCCRA which will be used throughout the processing of the EEO complaint. This docket number does not replace the docket number assigned by USACARA, rather it is used as a control to identify the records in EEOCCRA.

(2) After receiving the EEOCCRA docket number, the EEO officer will use the docket number on all documents generated or submitted by the activity EEO officer in the processing of the complaint.

8–9. Disposition of complaints of discrimination.

a. When action on a complaint of discrimination has been completed at the activity level, the case record will be promptly forwarded to the Director, EEOCCRA, ATTN: SFCR, WASH DC 20310–1813. When the case has been closed at the activity, instructions set forth in *b* below will be followed. When a hearing is requested, one copy of the file, similarly compiled, will be forwarded to the EEOC district office that will provide the complaints examiner. Additionally, one copy of the file, similarly compiled, will be forwarded to EEOCCRA. In all cases, the chronology of events will be completed and included in the case file. (See para 8–7.) This will apply whether forwarded to the EEOC complaints examiner for a hearing or to the EEOCCRA for a decision on the record.

b. Cases closed at the activity level are as follows:

(1) Cases are closed at the activity level as a result of rejection, cancellation, withdrawal, termination, adjustment, or decision on the merits.

(2) If a normal EEO complaint is closed in whole at the activity level, the EEO officer will submit the original file and one copy to EEOCCRA, compiled in accord with paragraph 8–7, and DA Form 5497–R. Submissions will be made within 10 days after the complaint is closed. If the complaint has been closed in part, two legible copies of the file will be forwarded to EEOCCRA within 10 days, compiled in accord with paragraph 8–7, along with DA Form 5497–R. Such case files will be notated as partial closure.

c. Activities and MACOMs will be notified of cases closed at the DA level by receipt of a copy of the final Army decision signed by the Secretary of the Army or his or her designee.

8–10. Travel and other costs

For individual complaints as well as class complaints of discrimination, travel and other related expenses will be as follows:

a. Travel and per diem expenses of USACARA investigators will be funded by the activity against which the alleged discrimination is lodged.

b. Expenses of other Army investigators, counselors, or investigators from other Federal agencies will be funded by the activity where the alleged discrimination took place.

c. Expenses of the EEOC complaints examiner are paid for by EEOC.

d. Travel expenses of Army personnel (complainants, representative, or witnesses), whose travel is required by a complaints examiner or other authorized official, will be funded by the activity against which the complaint is lodged.

e. Travel expenses of non-Army personnel (applicants/complainants) will not be paid in advance by the Army. Nor, if they are Federal employees, can their expenses be paid by their agencies unless their role concerns official business of their current employers. A successful applicant/complainant, may,

however, be reimbursed for such travel expenses as part of his or her costs.

f. If a complaint of discrimination is filed against a tenant organization, the tenant organization will pay the hearing costs, investigative costs, attorney fees and/or costs unless otherwise provided for in a host-tenant agreement. Problems that develop between host and tenant organizations will be promptly referred for resolution to the parent MACOM.

g. If the complaint involves a nonappropriated fund (NAF) activity, the costs will be borne by the host activity (that is, the appropriated fund activity that heads the installation where the NAF is assigned).

Appendix A

Addresses and Geographic Jurisdiction of U.S. Army Civilian Appellate Review Regional Offices

A–1. USACARA investigators are assigned to investigate discrimination complaints from various regional offices located throughout the United States and Europe. When an EEO officer must obtain the services of a USACARA investigator in accord with paragraph 2–6 (individual complaints) he or she should contact the USACARA regional office with jurisdiction over the activity.

A–2. The USACARA regional officers are as follows:

USACARA
5611 Columbia Pike
Room 434
Falls Church, VA 22041–5091
AV: 289–1423
(703) 756–1423

Geographic Jurisdiction:
USACARA Headquarters.

USACARA–GC
Gorman Plaza Bldg.
Suite 100
8950 Old Annapolis Road
Columbia, MD 21045
(301) 995–0069
(202) 621–5170

Geographic Jurisdiction:
Delaware, Maryland, Ohio, Virginia, District of Columbia, West Virginia.

USACARA–SE
Citizens Trust Bldg.
Room 450
75 Piedmont Ave., NE
Atlanta, GA 30303
AV: 797–5801
(404) 363–5801

Geographic Jurisdiction:
Alabama, Florida, Georgia, Mississippi, South Carolina, Puerto Rico, Panama.

USACARA–SW
Federal Bldg
1100 Commerce Street
Room 6B25
Dallas, TX 75242
(214) 767–0287

Geographic Jurisdiction:
Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

USACARA–MW
405 S. Tucker Blvd.
Room 4118
St. Louis, MO 63102–1132
AV: 693–0427
(314) 263–0427

Geographic Jurisdiction:
Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, New England, Tennessee, Wisconsin.

USACARA–WE
801 "I" Street
Room 498
Sacramento, CA 95814
(916) 551–1073
FTS: 460–1073

Geographic Jurisdiction:
Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming.

USACARA–EU
APO NY 09102–0007
Heidelberg Military 8968/6351

Geographic Jurisdiction:
Europe, Africa, North East, Atlantic Area, Middle East.

USACARA–PA
P.O. Box 50041
Honolulu, HI 96850–0001
(808) 546–8344

Geographic Jurisdiction:
Hawaii, Far East, Pacific Area.

USACARA–NE
766 Shrewsberry Ave.
3rd Floor
Tinton Falls, NJ 07724
(201) 741–1900

Geographic Jurisdiction:
Pennsylvania, New Jersey, Maine, Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New York.

Appendix B
Sample format for notice of final Army decision

Section I
Format for the final Army decision letter

B–1. Use
The notice of final Army decision is to be used under the following circumstances:

a. If a discrimination complaint is rejected or canceled.

b. If a proposed disposition is adopted after the complainant has failed to request a hearing or a decision by the Army without a hearing.

c. If an activity rejects a written request to reinstate a complaint for further processing.

B–2. Delivery
The notice of final Army decision is sent by certified mail, return receipt requested, or personally delivered to both complainant and representative, if any. If the notice is personally delivered, the complainant and his or her representative, if any, will acknowledge receipt by signing and dating the official file copy of the notice. If they decline to sign the copy, the server will sign it and indicate to whom and when the notice was served.

B–3. Filing
A copy of this notice will be filed in the complaint file.

B–4. Preparation of the notice of final Army decision
The notice of final Army decision should contain the notice itself (see fig B–1) and one of the three appeal rights in figures B–2, B–3, and B–4.

Section II
Appeal Rights

B–5. Use
When a notice of final Army decision is issued by an activity it must contain appropriate advisement of appellate rights. Use one of the following appellate rights as appropriate:

a. Use figure B–2 for complaints that allege discrimination based on any of the following:

(1) Race.
(2) Color.
(3) Religion.
(4) Sex.
(5) National origin.
(6) Physical or mental handicap.
(7) Reprisal.

b. Use figure B–3 for complaints that allege age discrimination as their only bases.

c. Use figure B–4 for complaints that allege age discrimination and any of the following:

(1) Race.
(2) Color.
(3) Religion.
(4) Sex.
(5) National origin.
(6) Physical or mental handicap.
(7) Reprisal.

Subject: Notice of final Army decision, (DOCKET NUMBER)

From: (ACTIVITY COMMANDER)

To: (COMPLAINANT)

This is the Army's final decision on your equal employment opportunity complaint, dated (DATE). You alleged (SPECIFY TYPE OF DISCRIMINATION) when (STATE THE WRONG ALLEGEDLY SUFFERED BY THE COMPLAINANT.)

Based on my evaluation of your complainant and pursuant to my authority to issue a final decision in this matter in accord with paragraph 2–9*g*, AR 690–600, I have decided you (WERE OR WERE NOT) subjected to prohibited discrimination in the matter at issue.

(SPECIFY THE REASONS FOR THE DECISION AND THE DOCUMENTS, OR REPORTS RELIED UPON IN REACHING YOUR DECISION.)

If you are dissatisfied with this final Army decision, you have the following appeal rights:

(See figs B–2, B–3, or B–4.)

Figure B–1. Sample notice of final Army decision

REGULAR APPEAL RIGHTS

(for all allegations of
discrimination other than age)

APPEAL RIGHTS

1. An appeal may be filed with the Equal Employment Opportunity Commission within 20 calendar days of receipt of this decision. The 20-day period for filing an appeal begins on the date of receipt of this decision. The appeal must be postmarked, or in the absence of a postmark, received by the Commission within 20 calendar days of the date of receipt of this decision. Statements or briefs in support of the appeal may be submitted up to 30 calendar days from the date the appeal is filed. The regulation providing for appeal rights, section 1613.233, title 29, Code of Federal Regulations (29 CFR 1613.233), is reproduced below pursuant to 29 CFR 1613.221(e).

"Section 1613.233 Time limits.

(*a*) Except as provided in paragraph (*c*) of this section, a complainant may file a Notice of Appeal at any time up to 20 calendar days after receipt of the agency's notice of final decision on his or her complaint. An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Commission. Any statement or brief in support of the appeal must be submitted to the Commission and to the defendant agency within 30 calendar days of filing the Notice of Appeal. For purposes of this Part, the decision of an agency shall be final only when the agency makes a determination on all of the issues in the complaint, including whether or not to award attorney's fees or costs. If a decision to award attorney fees or costs is made, the decision will not be final until the procedure is followed for determining the amount of the award as set forth in Section 1613.271(c).

(*b*) When issues of discrimination have been raised in a negotiated grievance process, a complainant may file a Notice of Appeal of such issues up to 20 days after:

(1) receipt of an agency decision on the grievance and expiration of the time during which the union and the agency may move the matter to the next stage of the grievance process;
(2) receipt of an arbitrator's award; or (3) receipt of the decision of the FLRA on exceptions to the arbitrator's award.

(*c*) The 20-day time limit within which a Notice of Appeal must be filed will not be extended by the Commission unless, based upon a written statement by the complainant showing that he or she was not notified of the prescribed time limit and was not otherwise aware of it or that circumstances beyond his or her control prevented the filing of a Notice of Appeal within the prescribed time limit, the Commission exercises its discretion to extend the time limit and accept the Appeal."

2. In lieu of an appeal to the Commission, a civil action may be filed in an appropriate United States District Court within 30 calendar days of receipt of the decision.

3. If an appeal to the Commission is filed, a civil action may be filed in a United States District Court within 30 calendar days of receipt of the Commission's final decision.

4. A civil action may also be filed any time after 180 calendar days of the date of initial appeal to the Commission, if a decision has not been rendered.

Figure B–2. Regular appeal rights

5. If a civil action is filed, and complainant does not have or is unable to obtain the services of a lawyer, the complainant may request the court to appoint a lawyer to represent him/her. In such circumstances as the court may deem just, the court may appoint a lawyer and may authorize the commencement of the action without the payment of fees, costs, or security. Any such a request must be made within the above referenced 30-day time limit for filing suit and in such form and manner as the court may require.

6. Appeals to the Commission should be forwarded to the Director, Office of Review and Appeals, Equal Employment Opportunity Commission, 2401 E Street, NW, WASH DC 20507. Any statement or brief in support of the appeal must be submitted to the Commission with two copies to the Director, Equal Employment Opportunity Compliance and Complaints Review Agency, Department of the Army, ATTN: SFCR, WASH DC 20310-1813, within 30 calendar days of filing the Notice of Appeal.

Docket Number

The docket number identified in the upper right hand corner of page 1 of this letter should be used on all correspondence to the Director of Equal Employment Opportunity or the Director, Equal Employment Opportunity Compliance and Complaints Review Agency.

Sincerely,

(Signature block)

Figure B-2. Regular appeal rights—Continued

AGE ONLY APPEAL RIGHTS

(for allegations of
age discrimination)

APPEAL RIGHTS

1. An appeal may be filed with the Equal Employment Opportunity Commission within 20 calendar days of receipt of this decision. The 20-day period for filing an appeal begins on the date of receipt of this decision. The appeal must be postmarked, or in the absence of a postmark, received by the Commission within 20 calendar days of the date of receipt of this decision. Statements or briefs in support of the appeal may be submitted up to 30 calendar days from the date the appeal is filed. The regulation providing for appeal rights, section 1613.233, title 29, Code of Federal Regulations (29 CFR 1613.233), is reproduced below pursuant to 29 CFR, 1613.221(e).

"Section 1613.233 Time limits.

(*a*) Except as provided in paragraph (*c*) of this section, a complainant may file a notice of appeal at any time up to 20 calendar days after receipt of the agency's notice of final decision on his or her complaint. An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Commission. Any statement or brief in support of the appeal must be submitted to the Commission and to the defendant agency within 30 calendar days of filing the notice of appeal. For purposes of this part, the decision of an agency shall be final only when the agency makes a determination on all of the issues in the complaint, including whether or not to award attorney's fees or costs. If a decision to award attorney fees or costs is made, the decision will not be final until the procedure is followed for determining the amount of the award as set forth in Section 1613.217(c).

(*b*) When issues of discrimination have been raised in a negotiated grievance process, a complainant may file a Notice of Appeal of such issues up to 20 days after: (1) receipt of an agency decision on the grievance and expiration of the time during which the union and the agency may move the matter to the next stage of the grievance process; (2) receipt of an arbitrator's award; or (3) receipt of the decision of the FLRA on exceptions to the arbitrator's award.

(*c*) The 20-day time limit within which a notice of appeal must be filed will not be extended by the Commission unless, based upon a written statement by the complainant showing that he or she was not notified of the prescribed time limit and was not otherwise aware of it or that circumstances beyond his or her control prevented the filing of a Notice of Appeal within the prescribed time limit, the Commission exercises its discretion to extend the time limit and accept the Appeal."

2. Appeals to the Commission should be forwarded to the Director, Office of Review and Appeals, Equal Employment Opportunity Commission, 2401 E Street, NW, WASH DC 20507. Any statement or brief in support of the appeal must be submitted to the Commission with two copies to the Director, Equal Employment Opportunity Compliance and Complaints Review Agency, Department of the Army, ATTN: SFCR, WASH DC 20310-1813, within 30 calendar days of filing the Notice of Appeal.

3. Attorney fees are not allowable for age discrimination complaints in the administrative process.

Docket Number

The docket number identified in the upper right hand corner of page 1 of this

Figure B-3. Age appeal rights

letter should be used on all correspondence to the Director of Equal Employment Opportunity or the Director, Equal Employment Opportunity Compliance and Complaints Review Agency.

Sincerely,

(Signature block)

Figure B–3. Age appeal rights—Continued

COMBINED APPEAL RIGHTS

(For Allegations of
Age PLUS Race, Color, Religion, Sex, National
Origin, Physical or Mental Handicap, and/or Reprisal)

APPEAL RIGHTS-AGE DISCRIMINATION

1. An appeal may be filed with the Equal Employment Opportunity Commission with 20 calendar days of receipt of this decision. The 20-day period for filing an appeal begins on the date of receipt of this decision. The appeal must be postmarked, or, in the absence of a postmark, received by the Commission within 20 calendar days of the date of receipt of this decision. Statements or briefs in support of the appeal may be submitted up to 30 calendar days from the date the appeal is filed. The regulation providing for appeal rights, section 1613.233, title 29, Code of Federal Regulations (29 CFR 1613.233), is reproduced below pursuant to 29 CFR 1613.221(e).

"Section 1613.233 Time Limits.

(a) Except as provided in paragraph (c) of this section, a complainant may file a notice of appeal at any time up to 20 calendar days after receipt of the agency's notice of final decision on his or her complaint. An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Commission. Any statement or brief in support of the appeal must be submitted to the Commission and to the defendant agency within 30 calendar days of filing the notice of appeal. For purposes of this part, the decision of an agency shall be final only when the agency makes a determination on all of the issues in the complaint, including whether or not to award attorney fees or costs. If a decision to award attorney's fees or costs is made, the decision will not be final until the procedure is followed for determining the amount of the award as set forth in 1613.271(c).

(b) When issues of discrimination have been raised in a negotiated grievance process, a complainant may file a Notice of Appeal of such issues up to 20 days after: (1) receipt of an agency decision on the grievance and expiration of the time during which the union and the agency may move the matter to the next stage of the grievance process; (2) receipt of an arbitrator's award; or (3) receipt of the decision of the FLRA on exceptions to the arbitrator's award.

(c) The 20-day time limit within which a notice of appeal must be filed will not be extended by the Commission unless, based upon a written statement by the complainant showing that he or she was not notified of the prescribed time limit and was not otherwise aware of it or that circumstances beyond his or her control prevented the filing of a Notice of Appeal within the prescribed time limit, the Commission exercises its discretion to extend the time limit and accept the appeal."

2. Appeals to the Commission should be forwarded to the Director, Office of Review and Appeals, Equal Employment Opportunity Commission, 2401 E Street, NW, WASH DC 20507. Any statement of brief in support of the appeal must be submitted to the Commission with two copies to the Director, Equal Employment Opportunity Compliance and Complaints Review Agency, Department of the Army, ATTN: SFCR, WASH DC 20310-1813, within 30 calendar days of filing the Notice of Appeal.

3. Attorney fees are not allowable for age discrimination complaints in the administrative process.

APPEAL RIGHTS—OTHER

1. An appeal may be filed with the Equal Employment Opportunity

0Figure B-4. Combined appeal rights

Commission within 20 calendar days of receipt of this decision.The 20-day period for filing an appeal begins on the date of receipt of this decision. The appeal must be postmarked, or in the absence of a postmark, received by the Commission within 20 calendar days of the date of receipt of this decision. Statements or briefs in support of the appeal may be submitted up to 30 calendar days from the date the appeal is filed. The regulation providing for appeal rights, section 1613.233, title 29 Code of Federal Regulations (29 CFR 1613.233), is reproduced below pursuant to 29 CFR 1613.221(e).

"Section 1613.233 Time Limits.

(a) Except as provided in paragraph (c) of this section, a complainant may file a notice of appeal at any time up to 20 calendar days after receipt of the agency's notice of final decision on his or her complaint. An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Commission. Any statement or brief in support of the appeal must be submitted to the Commission and to the defendant agency within 30 calendar days of filing the notice of appeal. For purposes of this Part, the decision of an agency shall be final only when the agency makes a determination on all of the issues in the complaint, including whether or not to award attorney fees or costs. If a decision to award attorney's fees or costs is made, the decision will not be final until the procedure is followed for determining the amount of the award as set forth in Section 1613.271(c).

(b) When issues of discrimination have been raised in a negotiated grievance process, a complainant may file a Notice of Appeal of such issues up to 20 days after: (1) receipt of an agency decision on the grievance and expiration of the time during which the union and the agency may move the matter to the next stage of the grievance process; (2) receipt of an arbitrator's award; or (3) receipt of the decision of the FLRA on exceptions to the arbitrator's award.

(c) The 20-day time limit within which a notice of appeal must be filed will not be extended by the Commission unless, based upon a written statement by the complainant showing that he or she was not notified of the prescribed time limit and was not otherwise aware of it or that circumstances beyond his or her control prevented the filing of a Notice of Appeal within the prescribed time limit, the Commission exercises its discretion to extend the time limit and accept the Appeal."

2. In lieu of an appeal to the Commission, a civil action may be filed in an appropriate United State District Court within 30 calendar days of receipt of the decision.

3. If an appeal to the Commission is filed, a civil action may be filed in a United States District Court within 30 calendar days of receipt of the Commission's final decision.

4. A civil action may also be filled any time after 180 calendar days of the date of initial appeal to the Commission, if a decision has not been rendered.

5. If a civil action is filed, and complainant does not have, or is unable to obtain the services of a lawyer, the complainant may request the court to appoint a lawyer to represent him/her. In such circumstances as the court may deem just, the court may appoint a lawyer and may authorize the commencement of the action without the payment of fees, costs or security. Any such request must be made within the above referenced 30-day time limit for filing suit and in such form and manner as the court may require.

6. Appeals to the Commission should be forwarded to the Director, Office of Review and Appeals, Equal Employment Opportunity Commission, 2401 E Street, NW, WASH DC 20507. Any statement or brief in support of the appeal

Figure B-4. Combiuned appeal rights—Continued

must be submitted to the Commission with two copies to the Director, Equal Employment Opportunity Compliance and Complaints Review Agency Department of the Army, ATTN: SFCR, WASH DC 20310–1813, within 30 calendar days of filing the Notice of Appeal.

Docket Number

The docket number identified in the upper right hand corner of page 1 of this letter should be used on all correspondence to the Director of Equal Employment Opportunity or the Director, Equal Employment Opportunity Compliance and Complaints Review Agency.

Sincerely,

(UNQUOTE)

(Signature block)

Figure B–4. Combined appeal rights–Continued

Appendix C
Addresses and Geographic jurisdictions of EEOC district offices

C–1. EEOC complaints examiners are assigned to hear discrimination complaints from various district offices located throughout the United States. When an EEO officer must obtain the services of an EEOC complaints examiner to conduct a hearing in accord with paragraph 2–13 (individual complaints) or paragraph 3–6 (class action complaints), he or she should contact the EEOC district office with jurisdiction over the activity.

C–2. The EEOC district offices are as follows:

Atlanta District Office
District Director
EEOC
Citizens Trust Bldg., 10th Fl.
75 Piedmont Avenue, NE
Atlanta, Georgia 30335
(404) 212–6091
FTS 242–6091
Geographic Jurisdiction:
States of Georgia and South Carolina.

Baltimore District Office
District Director
EEOC
109 Market Pl., Suite 4000
Baltimore, Maryland 21201
(301) 962–3932
FTS 922–3932
Geographic Jurisdiction:
States of Maryland and Virginia, District of Columbia, Europe.

Birmingham District Office
District Director
EEOC
2121 Eighth Ave., North
Birmingham, Alabama 35203
(205) 254–1166
FTS 229–1166
Geographic Jurisdiction:
States of Alabama and Mississippi.

Charlotte District Office
District Director
EEOC
1301 East Morehead Street
Charlotte, North Carolina 28204
(704) 371–6437
FTS 672–6455
Geographic Jurisdiction:
State of North Carolina.

Chicago District Office
District Director
EEOC
Federal Bldg., Room 930A
536 S. Clark Street
Chicago, Illinois 60605
(312) 353–2712
FTS 353–2713
Geographic Jurisdiction:
State of Illinois, except counties of Alexander, Bond, Calhoun, Clinton, Greene, Jackson, Jersey, Macoupin, Madison, Monroe, Perry, Pulaski, Randolph, St. Clair, Union, and Washington.

Cleveland District Office
District Director
EEOC
One Playhouse Square
1375 Euclid Avenue, Room 600
Cleveland, Ohio 44115
(216) 522–7425
FTS 942–4784
Geographic Jurisdiction:
State of Ohio.

Dallas District Office
District Director
EEOC
8303 Elmbrook Dr., 2nd Floor
Dallas, Texas 75247
(214) 767–7015
FTS 729–7015
Geographic Jurisdiction:
States of Oklahoma and Texas counties of:
Anderson, Archer, Armstrong, Bailey, Baylor, Bell, Borden, Bosqoe, Bowie, Briscoe, Brown, Callahan, Camp, Carson, Cass, Castro, Cherokee, Childress, Clay, Coke, Coleman, Collin, Collingsworth, Comanche, Cooke, Coryell, Cottle, Crath, Crosby, Dallas, Deafsmith, Delta, Denton, Dickens, Donley, Ellis, Fallas, Fannin, Fisher, Floyd, Forad, Franklin, Freestone, Garza, Glascock, Gray, Graysonn, Gregg, Hale, Hall, Hamilton, Hansford, Hardemann, Harrison, Hartly, Haskel, Hemphill, Henderson, Hill, Hood, Hopkins, Howard, Houston, Hunt, Hutchinson, Irion, Jack, Johnson, Jones, Kaufman, Kent, King, Knox, Lamar, Lampass, Leon, Limestone, Lipscomb, Madison, Marion, McLennan, Mehannan, Milam, Mills, Mitchell, Montague, Moore, Morris, Motley, Nacogdoches, Navarro, Nolan, Ochiltree, Oldham, Palo Pinto, Panola, Parker, Parmer, Potter, Rains, Randall, Regean, Red River, Robertson, Rockwell, Runnels, Rusk, Scurry, Shackelford, Shelby, Sherman, Smith, Somervelle, Stephens, Sterling, Stone-

wall, Swisher, Tarrent, Taulor, Thorockmorton,

Geographic Jurisdiction—(Continued)

Titus, Tom Green, Upshur, Van Zandt, Wheeler, Wichita, Wilbarger, Wise, Wood, Young.

States of Oklahoma and Texas counties of:

Andrews, Cochran, Crane, Colberson, Dawson, Ector, El Paso, Gaines, Hockley, Hudspeth, Loving, Bubbock, Lynn, Martin, Midland, Reeves, Terry, Upton, Ward, Winkler, Yoachum.

Denver District Office

District Director
EEOC
1531 Stout Street, 6th Floor
Denver, Colorado 80202
(303) 844–2771
FTS 564–2771

Geographic Jurisdiction:

States of Colorado, Wyoming, Montana, North Dakota, South Dakota.

Detroit District Office

District Director
EEOC
McNamara Federal Building
477 Michigan Avenue, Room 1540
Detroit, Michigan 48226
(313) 226–7636
FTS 226–7636

Geographic Jurisdiction:

State of Michigan.

Houston District Office

District Director
EEOC
405 Main Street, 6th Floor
Houston, Texas 77002
(713) 226–5601
FTS 526–5601

Geographic Jurisdiction:

State of Texas, counties of:

Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galverston, Grimes, Hardin, Harris, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Newton, Organe, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walder, Waller, Warton.

Indianapolis District Office

District Director
EEOC
Federal Building, U.S. Courthouse
46 E. Ohio Street, Room 456
Indianapolis, Indiana 46204
(317) 269–7212
FTS 331–7212

Geographic Jurisdiction:

States of Indiana and Kentucky.

Los Angeles District Office

District Director
EEOC
3255 Wilshire Blvd., 9th Floor
Los Angeles, California 90010
(213) 798–3400
FTS 798–3400

Geographic Jurisdiction:

State of Neveda, and California counties of:

Los Angeles, San Bernadino, Ventura, Kern, San Luis Obispo, Santa Barbara, Orange, Riverside, Imperial, San Diego.

Memphis District Office

District Director
EEOC
1407 Union Avenue, Suite 502
Memphis, Tennessee 38104
(901) 521–2617
FTS 222–2617

Geographic Jurisdiction:

States of Tennessee and Arkansas.

Miami District Office

District Director
EEOC
Metro-Mall Building
1 NE First Street
Miami, Florida 33132
(305) 350–4949
FTS 350–4491

Geographic Jurisdiction:

State of Florida, and Panama Canal Zone.

Milwaukee District Office

District Director
EEOC
310 West Wisconsin Ave., Suite 800
Milwaukee, Wisconsin 53203
(414) 291–1111
FTS 362–1111

Geographic Jurisdiction:

States of Wisconsin, Minnesota, and Iowa.

New Orleans District Office

District Director
EEOC
F. Edward Herbert Federal Bldg.
600 South Street
New Orleans, Louisiana 70130
(504) 589–3842
FTS 682–3842

Geographic Jurisdiction:

State of Louisiana.

New York District Office

District Director
EEOC
90 Church St., Room 501
New York, New York 10007
(804) 441-3470
FTS 827-3470

Geographic Jurisdiction:
States of New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine; and Puerto Rico and the Virgin Islands.

Philadelphia District Office
Acting District Director
EEOC
127 N. 4th Street, Suite 300
Philadelphia, Pennsylvania 19106
(215) 597-7784
FTS 597-7784

Geographic Jurisdiction:
States of Pennsylvania, New Jersey, Delaware, and West Virginia.

Phoenix District Office
District Director
135 North Second Ave., 4th Floor
Phoenix, Arizona 85003
(602) 261-3882
FTS 261-382

Geographic Jurisdiction:
States of Arizona, New Mexico, and Utah.

San Antonio District Office
District Director
EEOC
727 East Durango, Suite B-601
San Antonio, Texas 78206
(512) 229-6051

Geographic Jurisdiction:
State of Texas, counties of:
Arkansas, Atascosa, Bandera, Bastrop, Bee, Bexar, Blanco, Brazos, Brewster, Brooks, Burleson, Burnet, Caldwell, Calhoun, Cameron, Comal, Conmcho, Crockett, De Witt, Dimmit, Duval, Dewards, Fayette, Frio, Gillespie, Goliad, Gonzalos, Guadalupe, Hays, Hildalgo, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kent, Kerr, Kimble, Kinney, Kleberg, La Salle, Lavaca, Lee, Live Oak, Llano, Mason, Maverick, Medina, Menard, McCulloch, McMullen, Neuces, Pecos, Presidio, Real, Refugio, San Patricio, San Saba, Scheleicher, Starr, Sutton, Terrell, Travis, Uvalde, Val Verde, Victoria, Washington, Webb, Willacy, Williamson, Wilson, Zapata, Zavala.

San Francisco District Office
District Director
EEOC
10 United Nations Plaza, 4th Floor
San Francisco, California 94102
(415) 556-0260
FTS 556-0260

Geographic Jurisdiction:
State of Hawaii, Pacific Far East, and California counties of:
Colusa, Del Norte, Glenn, Humbott, Lake, Marlin, Mendocino, Napa, San Francisco, San Mateo, Solana, Sonoma, Trinity, Yolo, Fresno, Inyo, Kings, Madera, Alameda, Alpine, Amador, Calaveras, Contra, Costa, Mono, San Joaquin, Stanislaus, Tuolumne, Butte, El Dorado, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Siskiyou, Sutter, Tehama, Yung, Monterey, Santa Clara, Santa Cruz.

Seattle District Office
District Director
EEOC
Arcade Plaza Building, 7th Floor
Seattle, Washington 98101
(206) 442-0968
FTS 339-0968

Geographic Jurisdiction:
States of Washington, Oregon, Idaho, and Alaska.

St. Louis District Office
District Director
EEOC
Central West Plaza Bldg., 4th Floor
625 N. Euclid Street
St. Louis, Missouri 63108
(314) 425-6585
FTS 279-6585

Geographic Jurisdiction:
States of Missouri, Kansas, and Illinois counties of:
Alexander, Bond, Calhoun, Clinton, Greene, Jackson, Jersey, Macoupin, Madison, Monroe, Perry, Pulaski, Randolph, St. Clair, Union, Washington.

Appendix D
Sample Advice—Mixed Cases

D–1. The following advice should be attached verbatim to all Army decisions on personnel actions that are appealable to the MSPB where the employee has raised the issue of discrimination, either orally or in writing, during the processing of the personnel action but prior to the Army decision to effect that personnel action:

> "If you believe that this personnel action discriminated against you on the basis of your race, color, religion, sex, national origin, age, physical or mental handicap and/or reprisal, you may file a complaint of discrimination with the following person (activity EEO officer) or you may file an appeal with the Merit Systems Protection Board, as previously described. You may not, however, file both. Should you elect to file a complaint of discrimination, your complaint will be processed in accordance with Equal Employment Opportunity Commission regulations at section 1613.401, title 29, Code of Federal Regulations (29 CFR 1613.401.) Should you elect to file an appeal, your appeal will be processed in accordance with MSPB regulations at 5 CFR 1201."

D–2. The following advice is applicable to mixed case complaints and should be attached to all decisions where the Army rejects the complaint pursuant to 29 CFR 1613.405(a) (that is, where the complainant has previously appealed the matter which forms the basis of the complaint to the MSPB):

> "Should you wish to proceed further with this matter, you must bring the allegations of discrimination contained in this rejected complaint to the attention of the MSPB as part of your appeal, pursuant to 5 CFR 1201.155."

D–3. The following advice is applicable to mixed case complaints filed on or after May 2, 1983, and should be attached to all decisions where the Army canceled the complaint pursuant to 29 CFR 1613.405(b) (that is, where the Army learns, after accepting a complaint, that the complainant previously filed an appeal on the same matter with the MSPB):

> "Should you wish to proceed further with this matter, you must bring the allegations of discrimination contained in this canceled complaint to the attention of the MSPB as part of your appeal to them, pursuant to 5 CFR 1201.155."

D–4. The following advice shall be made a part of all letters notifying the complainant of the acceptance of a mixed case complaint for processing pursuant to 29 CFR 1613.405(e):

> "Your complaint shall be processed in accordance with 29 CFR 1613.405(e) of Equal Employment Opportunity Commission (EEOC) regulations. If you do not receive a final agency decision on this complaint within 120 calendar days of the date of the filing of this complaint, you may appeal the matter to the Merit Systems Protection Board at any time thereafter, up to, but not later than, 1 year from the filing of the complaint, or you may file a civil aciton, as specified at 29 CFR 1613.417(g). If you are dissatisfied with the Army's eventual decision on this complaint, you may appeal that decision to the MSPB (not the EEOC) within 20 calendar days of receipt of the decision."

D–5. The following advice shall be made a part of the letter notifying the complainant of the proposed disposition of a mixed case complaint:

origin, age, physical or mental handicap, and/or reprisal.

Complaints examiner
An official assigned by the EEOC to hold hearings on formal complaints of discrimination and otherwise process individual and class complaints for the EEOC.

Director of Equal Employment Opportunity
The official designated by the Secretary of the Army, to administer the Army's EEO program in accordance with 29CFR 1613.204.

Discrimination
Any act or failure to act, impermissibly based in whole or in part on a person's race, color, religion, national origin, sex, age, physical or mental handicap, and/or reprisal; that adversely affects privileges, benefits, working conditions; results in disparate treatment; or has a disparate impact on employees or applicants.

Equal Employment Opportunity Commission
The Federal agency responsible for issuing policy and regulations on the discrimination complaint system established by an agency in the Federal service. The EEOC holds hearings and makes findings and recommendations. The EEOC Office of Review and Appeals makes final decisions on discrimination complaints that have been appealed. It also reviews, upon request, decisions of negotiated grievances and Merit Systems Protection Board appeals if they include issues of discrimination.

Equal Employment Opportunity Compliance and Complaints Review Agency
The Army Organization responsible for the management of the Army's EEO complaint system. EEOCCRA also prepares the final Army decision in EEO complaints for the approval and signature of the Secretary of the Army or his or her designee.

EEO counselor
An Army employee (or an employee of a serviced Department of Defense activity), working under the direction of the EEO officer, who makes informal inquiries and seeks resolution of informal complaints. EEO counselors may be assigned to full-time or part-time EEO counselor positions or be given collateral EEO duties and responsibilitie;. (In the latter case, the EEO counseling duties are officially added to the counselor's position description). In performing the EEO functions, the counselor is guided by the EEO officer.

EEO officer
The individual designated by the Activity Commander to administer the activity's EEO Program. This includes managing and operating the complaint processing system, supervising EEO counselors, and advising the Activity Commander on the proposed disposition of complaints.

Federal Labor Relations Authority
The Federal agency responsible for deciding appeals of arbitration awards filed by a union or an agency regarding grievances filed under the negotiated grievance procedure.

Final Army decision
The decision, with or without a hearing, of the Army on a complaint of discrimination.

Formal individual discrimination complaint
A written complaint (ordinarily, a DA Form 2590–R) filed under this regulation, alleging that a specific act of discrimination or reprisal has taken place that is personal to the individual.

Handicapped person
a. A person who—

(1) Has a physical or mental impairment which substantially limits one or more of such person's major life activities.

(2) Has a record of such an impairment.

(3) Is regarded as having such an impairment.

b. Physical or mental impairment.

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

(*a*) Neurological.
(*b*) Musculoskeletal.
(*c*) Special sense organs.
(*d*) Cardiovascular.
(*e*) Reproductive.
(*f*) Digestive.
(*g*) Genito-urinary.
(*h*) Hemic and lymphatic.
(*i*) Skin
(*j*) Endocrine.

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

c. Major life activities. Functions include caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

d. Has a record of such an impairment. The person has a history of, or has been classified (or misclassified) as having, a mental or physical impair-

ment that substantially limites one or more major life activities.

e. Is regarded as having such an impairment. This term is defined as one of the following:

(1) A physical or mental impairment that does not substantially limit major life activities but is treated by an employer as constituting such a limitation.

(2) A physical or mental impairment that substantially limits major life activities only as a result of the attitude of an employer toward such impairment.

(3) None of the impairments defined in (2) above that is treated by an employer as having such an impairment.

Informal individual discrimination complaint

A matter of alleged discrimination which is brought to the attention of an EEO counselor by an aggrieved person before a formal discrimination complaint is filed. Contact with the EEO counselor may be oral or in writing.

Investigative Report

In the Army, the report of investigation prepared by a USACARA investigator after the filing of a formal EEO complaint.

Labor counselor

An attorney working in the legal office servicing an activity who advises and represents the Activity Commander in labor matters, to include EEO complaints.

Merit Systems Protection Board

The Federal agency responsible for deciding appeals of personnel actions and mixed case complaints.

Mixed case complaint

A complaint involving an action appealable to MSPB which alleges that the action was taken because of discrimination. Actions appealable to the MSPB include removals, demotions, suspensions for more than 14 days, reductions-in-force, and furloughs for 30 days or less.

Mixed case appeals

An appeal filed with the MSPB which alleges that an Army action resulted, in whole or in part, because of discrimination on the basis of race, color, religion, sex, national origin, mental or physical handicap, age, and/or reprisal, or alleges that such Army action resulted in sex-based wage discrimination.

Negotiated grievance procedure

A grievance contained in a collective bargaining agreement negotiated between the Army and a recognized labor organization. An allegation of discrimination may be processed under a negotiated grievance procedure as provided for by section 7121(d), title 5, United States Code. Unless specifically excluded by agreement between labor and management, an allegation of discrimination may be processed under a negotiated grievance procedure or this regulation, but not both.

Notice of proposed disposition

The notification from the commander to the complainant, after an informal adjustment attempt, of his or her findings and disposition of the complaint. The notice advises the complainant of the right to request a final Army decision, with or without a hearing, from the Department of the Army.

Qualified handicapped person

With respect to employment, a handicapped person who, with or without reasonable accommodation, can perform the essential functions of the position in question without endangering the health and safety of himself, herself, or others and who, depending upon the type of appointing authority being used, either—

a. Meets the experience or education requirements (which may include passing a written test) of the position in question.

b. Meets the criteria for appointment under one of the special appointing authorities for handicapped persons.

Remedial action

May include, but is not limited to, retroactive appointment or promotion, back pay, attorney fees and/or costs, cancellation of an unwarranted personnel action, or expunction from the Army's records of any reference to, or any record of, an unwarranted disciplinary action that is not a personal action.

Reportable contact

A reportable contact is any contact with an EEO counselor by an aggrieved person who alleges discrimination on the bases of race, color, religion, sex, age, mental or physical handicap, national origin, or reprisal.

Sexual harassment

Unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature when one or more of the following occurs:

a. Submission to such conduct is made either explicitly or implicitly a term of condition of an individual's employment.

b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

U.S. Army Civilian Appellate Review Agency
The Army organization that investigates and makes recommendations on formal EEO complaints filed against the Army.

By Order of the Secretary of the Army:

JOHN A. WICKHAM, JR.
General, United States Army
Chief of Staff

Official:

MILDRED E. HEDBERG
Brigadier General, United States Army
The Adjutant General

DISTRIBUTION: ACTIVE ARMY, ARNG, USAR: To be distributed in accordance with DA Form 12-9A requirements for AR, Civilian Personnel—D and E.

FORMAL COMPLAINT OF DISCRIMINATION

For use of this form, see AR 690-600; the proponent agency is the Office of the Secretary of the Army

(Please print or type)

PRIVACY ACT STATEMENT
(5 U.S.C. 552a)

AUTHORITY: *Public Law 92-261*

PRINCIPAL PURPOSE: *Formal filing of allegation of discrimination because of race, color, religion, sex, handicap, age, national origin or reprisal.*

ROUTINE USES: *This form and the information on this form may be used (a) as a data source for complaint information for production of summary descriptive statistics and analytical studies of complaints processing and resolution efforts and may also be used to respond to general requests for information under the Freedom of Information Act, (b) to respond to requests from legitimate outside individuals or agencies (for example: Members of Congress, The White House, and the Equal Employment Opportunity Commission) regarding the status of the complaint or appeal and, (c) to adjudicate complaint or appeal.*

DISCLOSURE: *Voluntary; however, failure to complete all appropriate portions of this form may lead to rejection of complaint on the basis of inadequate data on which to determine if complaint is acceptable.*

1. NAME OF COMPLAINANT (Last, First, Middle) COMPLAINANT'S SSN	2. COMPLAINANT'S TELEPHONE NUMBERS WORK HOME
3. COMPLAINANT'S ADDRESS *(Include City, State, ZIP Code)*	4. IS COMPLAINANT BEING REPRESENTED YES NO IF YES, NAME OF REPRESENTATIVE
5. NAME OF ARMY ORGANIZATION YOU BELIEVE DISCRIMINATED AGAINST YOU	6. ADDRESS OF ALLEGED DISCRIMINATION ORGANIZATION *(Include City, State, ZIP Code)*
7. MAJOR ARMY COMMAND OF ACTIVITY YOU BELIEVE DISCRIMINATED AGAINST YOU	8. DATE ON WHICH MOST RECENT ALLEGED DISCRIMINATION OCCURRED
9. ARE YOU WORKING FOR THE FEDERAL GOVERNMENT / / YES (Answer items 10, 11 and 12) / / NO (Skip to item 13)	10. NAME OF AGENCY WHERE YOU ARE CURRENTLY EMPLOYED
11. ADDRESS OF YOUR CURRENT EMPLOYER *(Include City, State, ZIP Code)*	12. TITLE AND GRADE OF YOUR CURRENT JOB

13. CHECK BELOW WHY YOU BELIEVE YOU WERE DISCRIMINATED AGAINST, BECAUSE OF YOUR

/ / RACE. IF SO, STATE YOUR RACE
/ / COLOR. IF SO, STATE YOUR COLOR
/ / HANDICAP, MENTAL/PHYSICAL (CIRCLE ONE)
/ / NATIONAL ORGIN. IF SO, STATE YOUR NATIONAL ORIGIN
/ / SEX. IF SO, STATE YOUR SEX
/ / RELIGION. IF SO, STATE YOUR RELIGION
/ / AGE. IF SO, STATE YOUR AGE
/ / REPRISAL

14. I HAVE DISCUSSED MY COMPLAINT WITH AN EQUAL EMPLOYMENT OPPORTUNITY COUNSELOR *(See reverse)* / / YES / / NO	15. NAME OF COUNSELOR

16. DATE OF FINAL INTERVIEW

17. EXPLAIN SPECIFICALLY HOW YOU WERE DISCRIMINATED AGAINST, THAT IS, TREATED DIFFERENTLY FROM OTHER EMPLOYEES OR APPLICANTS, BECAUSE OF YOUR RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE, MENTAL OR PHYSICAL HANDICAP, OR REPRISAL. *(If your complaint involves more than one basis for your dissatisfaction, list and number each such allegation separately and furnish specific, factual information in support of each. You may continue your answer on another sheet of paper if you need more space.)*
ALLEGATION NUMBER ( )

18. LIST BELOW THE NAMES OF YOUR WITNESSES AND WHAT FACTUAL INFORMATION EACH WILL BE EXPECTED TO CONTRIBUTE THROUGH HIS/HER TESTIMONY TO THE INVESTIGATION OF YOUR COMPLAINT *(Include in REMARKS)*

19. WHAT SPECIFIC CORRECTIVE ACTION DO YOU WANT TAKEN ON YOUR COMPLAINT *(If more than one allegation is being made, state overall corrective action desired and the specific corrective action desired for each separate allegation)*

20. HAVE THE MATTERS LISTED IN ITEM 17 BEEN APPEALED TO THE MERIT SYSTEM PROTECTION BOARD OR FILED UNDER A NEGOTIATED GRIEVANCE PROCEDURE. IF YES, EXPLAIN.	
REMARKS *(Continue on white bond paper if necessary.)*	
21. DATE THIS COMPLAINT FORM WAS SIGNED BY THE COMPLAINANT (Month, Day, and Year)	22. SIGNATURE OF COMPLAINANT
TO BE COMPLETED BY THE ORGANIZATION'S EQUAL EMPLOYMENT OPPORTUNITY OFFICER (EEOO)	
I CERTIFY THAT (1) THE COMPLAINANT HAS REAFFIRMED THIS COMPLAINT IN MY PRESENCE AND HAS STATED THAT THE FACTS CONTAINED THEREIN ARE TRUE TO THE BEST OF HIS/HER KNOWLEDGE, (2) A DETERMINED EFFORT AT INFORMAL RESOLUTION OF THIS COMPLAINT FAILED TO PRODUCE A SOLUTION SATISFACTORY TO THE COMPLAINANT AND, (3) LOCAL MANAGEMENT IN THE APPROPRIATE CHAIN OF COMMAND HAS BEEN INFORMED CONCERNING THE COMPLAINT AND ITS SUBMISSION IN THE ABOVE FORMAT.	
22. SIGNATURE OF EEOO	23. TYPED NAME, TITLE, AND ADDRESS OF EEOO
24. DATE COMPLAINT FILED WITH EEOO	25. TELEPHONE NO. OF EEOO PROCESSING COMPLAINT
26. SUBJECT MATTER CODES	

THE MATTER(S) GIVING RISE TO THE COMPLAINT WILL BE CODED USING ONE OR MORE OF THE FOLLOWING CODES: APPOINTMENT (1); PROMOTION (2); REASSIGNMENT (3); SEPARATION/TERMINATION (4); SUSPENSION (5); REPRIMAND (6); EVALUATION/APPRAISAL (7); DUTY HOURS (8); TRAINING (9); TIME AND ATTENDANCE (10); RETIREMENT (11); ASSIGNMENT OF DUTIES (12); EXAM/TEST (13); WORK CONDITIONS (14); HARASSMENT (15); SEXUAL HARASSMENT (16); REPRISAL (17); PAY, INCLUDING OVERTIME (18); CONVERSION TO FULL TIME/CAREER CONDITIONAL (19); REINSTATEMENT (20); AWARDS (21); OR, OTHER (22) (specify).

INFORMATION CONCERNING THE PROCESSING OF YOUR COMPLAINT OF DISCRIMINATION.

THIS FORM WILL BE USED ONLY IF YOU, AS AN ARMY EMPLOYEE OR AS AN APPLICANT FOR FEDERAL EMPLOYMENT, THINK YOU HAVE BEEN TREATED UNFAIRLY BECAUSE OF YOUR RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE, MENTAL OR PHYSICAL HANDICAP, OR REPRISAL. IF YOU HAVE ANY QUESTIONS CONCERNING THE COMPLETION OF THIS FORM, YOU MAY CONTACT THE EQUAL EMPLOYMENT OPPORTUNITY OFFICER (EEOO) AT YOUR ACTIVITY.

YOUR WRITTEN FORMAL COMPLAINT MUST BE FILED WITHIN 15 CALENDAR DAYS OF THE DATE OF YOUR FINAL INTERVIEW WITH THE EEO COUNSELOR. IF THE MATTER HAS NOT BEEN RESOLVED TO YOUR SATISFACTION WITHIN 21 CALENDAR DAYS OF YOUR FIRST INTERVIEW WITH THE EEO COUNSELOR AND THE FINAL COUNSELING INTERVIEW HAS NOT BEEN COMPLETED WITHIN THAT TIME, YOU HAVE A RIGHT TO FILE A COMPLAINT AT ANY TIME THEREAFTER UP TO 15 DAYS AFTER THE FINAL INTERVIEW. YOUR WRITTEN FORMAL COMPLAINT MUST BE FILED WITHIN 15 CALENDAR DAYS OF THE DATE OF YOUR FINAL INTERVIEW WITH THE EEO COUNSELOR. THIS TIME LIMIT MAY BE EXTENDED IF YOU CAN GIVE A GOOD REASON FOR NOT SUBMITTING THE COMPLAINT WITHIN THE 15 CALENDAR DAY TIME LIMIT.

YOU MAY HAVE A REPRESENTATIVE AT ALL STAGES OF THE PROCESSING OF YOUR COMPLAINT. YOU OR YOUR REPRESENTATIVE SHOULD PERSONALLY FILE YOUR COMPLAINT WITH THE EEOO OF YOUR ACTIVITY.

IF YOUR COMPLAINT IS ACCEPTED, YOU WILL HAVE AN OPPORTUNITY TO TALK WITH AN INVESTIGATOR FROM THE U.S. ARMY CIVILIAN APPELLATE REVIEW AGENCY AND TO GIVE HIM ALL THE FACTS YOU HAVE WHICH YOU BELIEVE WILL SUPPORT YOUR COMPLAINT. IF YOUR COMPLAINT IS REJECTED, YOU WILL BE ADVISED IN WRITING OF THE REASON(S) AND ADVISED OF THE RIGHT TO APPEAL. UPON COMPLETION OF THE INVESTIGATION OF YOUR COMPLAINT, YOU WILL RECEIVE A COPY OF THE INVESTIGATOR'S REPORT AND AN ATTEMPT WILL BE MADE TO RESOLVE THE COMPLAINT THEN.

IF YOUR COMPLAINT CANNOT BE SETTLED INFORMALLY ON THE BASIS OF THE INVESTIGATION, YOU MAY REQUEST A REVIEW OF YOUR RECORD BY THE DEPARTMENT OF THE ARMY DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY, OR YOU MAY REQUEST A HEARING AT THIS STAGE. IF A HEARING IS REQUESTED, IT WILL BE CONDUCTED BY A COMPLAINTS EXAMINER DESIGNATED BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. THE FINDINGS, ANALYSIS, AND RECOMMENDATION WILL BE FORWARDED TO THE DIRECTOR OF EQUAL EMPLOYMENT OPPORTUNITY FOR DECISION. YOU WILL BE ADVISED BY THE DIRECTOR OF THE DECISION AND PROVIDED A COPY OF THE CASE RECORD.

IF YOU ARE NOT SATISFIED WITH THE DIRECTOR'S DECISION, YOU WILL HAVE THE RIGHT TO APPEAL TO THE OFFICE OF REVIEW AND APPEALS OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, 2401 E STREET, N.W., WASHINGTON DC, 20507 WITHIN 20 CALENDAR DAYS AFTER RECEIPT OF THE DECISION.

PLEASE BE SPECIFIC IN STATING THE FACTS CONCERNING YOUR COMPLAINT IN ITEMS 14 THROUGH 20 ON THE REVERSE OF THIS FORM.

PRECOMPLAINT COUNSELING DATA SHEET

For use of this form, see AR 690-600; the proponent agency is the Office of the Secretary of the Army

DATE

INSTRUCTIONS

The EEO Counselor will complete all items except those which will be completed by the EEO Officer, which are: (1) identifying the MACOM of the activity against which the inquiry was raised and, (2) reporting the amount of backpay awarded or to be awarded, if any.

MACOM

BASIS OF COMPLAINT

For the approriate box(es) below, enter the applicable code as follows:

CATEGORY	SPECIFIC	CODE	CATEGORY	SPECIFIC	CODE
R/C (RACE/COLOR)	Black	1	Rlgn (Religion)	Enter the religion	X
	Hispanic	2	Sex	Female	F
	American Indian	3		Male	M
	Oriental	4	Age	Enter the age	
	Aleut (Alaska only)	5	Hdcp (Handicap)	Mental	M
	Eskimo (Alaska only)	6		Physical	P
	White	7	Nat'l Orgn	Enter national origin	X
	Non-Hispanic (P.R. only)	8	Reprisal	Reprisal	X
	None of the above	9			

RACE	COLOR	RELIGION	HANDICAP	SEX	NATIONAL ORIGIN	AGE	REPRISAL

MATTER GIVING RISE TO THE COMPLAINT

The matter(s) giving rise to the complaint will be coded using one or more of the following codes: APPOINTMENT (1); PROMOTION (2); REASSIGNMENT (3); SEPARATION/TERMINATION (4); SUSPENSION (5); REPRIMAND (6); EVALUATION/APPRAISAL (7); DUTY HOURS (8); TRAINING (9); TIME AND ATTENDANCE (10); RETIREMENT (11); ASSIGNMENT OF DUTIES (12); EXAM/TEST (13); WORK CONDITIONS (14); HARASSMENT (15); SEXUAL HARASSMENT (16); REPRISAL (17); PAY, INCLUDING OVERTIME (18); CONVERSION TO FULL TIME/CAREER CONDITIONAL (19); REINSTATEMENT (20); AWARDS (21); AND/OR OTHER (22) (specify).

ENTER CODE(S) FOR MATTER(S) GIVING RISE TO THE COMPLAINT								

DATE OF ALLEGED INCIDENT	DATE COUNSELOR CONTACTED	DATE OF 21 DAY LETTER
DATE OF FINAL INTERVIEW	WAS COMPLAINT RESOLVED YES ( ) NO ( )	

CORRECTIVE ACTION TAKEN

(Check appropriate box)

A 1 PERFORMANCE RE EVALU ATED		B 2 ADVERSE MATERIAL RE MOVED FROM OPF		C 1 CEASE PRACTICE COMPLAINED OF	
D 2 AGENCY IMPROVEMENTS PERSONNEL PRACTICES		D 3 AGENCY IMPROVEMENT WORKING COND/PERS PRAC		E 1 RETROACTIVE HIRE WITH BACKPAY	
E 2 RETROACTIVE HIRE WITH OUT BACKPAY		E 3 NON RETROACTIVE HIRE		E 4 NON RETROACTIVE PROMOTION	
E 5 MODIFY DISCIPLINARY ACTION		F 1 REASSIGNMENT SAME DUTY STATION		F 2 REASSIGNMENT DIFFERENT DUTY STATION	
G 1 RETROACTIVE PROMOTION WITH BACKPAY		G 2 RETROACTIVE PROMOTION WITHOUT BACKPAY		H 1 ADVERSE ACTION RESCIND ED WITH BACKPAY	
H 2 ADVERSE ACTION RE SCINDED WITHOUT BACKPAY		J 1 PRIORITY CONSIDERATION		K 1 REINSTATEMENT WITH BACKPAY	
K 2 REINSTATEMENT WITHOUT BACKPAY		AMOUNT OF BACKPAY AWARDED		OTHER (Explain)	

REMARKS *(Continue on white bond paper if necessary.)*

SIGNATURE OF EEO OFFICER

DA FORM 5492-R, Dec 85

INDIVIDUAL COMPLAINT DATA SHEET For use of this form, see AR 690-600; the proponent agency is the Office of the Secretary of the Army			EEOCCRA DOCKET NO.
NAME (Last, First, Middle Initial)	SSN	RANK/GRADE	ORGANIZATION

INSTRUCTIONS *Items 1 through 15c will be filled out by both the EEO Counselor and the EEO Officer. Items 16a through 39d will be filled out by the EEO Officer only. When an item is not applicable to the particular EEO complaint being reviewed, the proper square will be marked with a diagonal line. All references are to paragraphs of AR 690-600, Equal Employment Opportunity Discrimination Complaints.*	EEO COUNSELOR		EEO OFFICER	
	YES	NO	YES	NO
SECTION A. PRECOMPLAINT PROCESSING (PARA 2-2)				
1. DID THE AGGRIEVED PERSON CONTACT THE EEO COUNSELOR WITHIN 30 DAYS OF THE ALLEGED DISCRIMINATION, EFFECTIVE DATE OF THE PERSONNEL ACTION, OR THE DATE THAT THE AGGRIEVED PERSON BECAME AWARE OR REASONABLY SHOULD HAVE BECOME AWARE OF THE DISCRIMINATORY EVENT OR PERSONNEL ACTION				
2. WAS THE AGGRIEVED PERSON ADVISED OF THE RIGHT TO HAVE A REPRESENTATIVE ACCOMPANY HIM/HER AT ALL STAGES OF THE COMPLAINT PROCESS				
3. WAS THE AGGRIEVED PERSON INFORMED OF ALTERNATE PROCEDURES FOR FILING ALLEGATIONS OF DISCRIMINATION				
4. HAS THE AGGRIEVED PERSON FILED AN APPEAL WITH THE MSPB ON THE SAME ISSUE				
5. HAS THE AGGRIEVED PERSON FILED A WRITTEN GRIEVANCE UNDER A NEGOTIATED GRIEVANCE PROCEDURE ON THE SAME ISSUE				
6. WAS THE AGGRIEVED PERSON'S NAME REVEALED TO ANYONE WITHOUT WRITTEN PERMISSION IN THE PRECOMPLAINT PROCESSING? IF YES, EXPLAIN IN REMARKS				
7a. DID THE EEO COUNSELOR DEFINE AND RECORD THE SPECIFIC DATE AND FACTS THAT FORM THE BASIS OF THE COMPLAINT				
b. WAS THIS DOCUMENT REVIEWED BY THE AGGRIEVED PERSON				
8. DID THE AGGRIEVED PERSON NAME AN ADO				
9. DID THE EEO COUNSELOR INQUIRE INTO THE SPECIFIC INCIDENTS AND ACTIONS IDENTIFIED BY THE AGGRIEVED PERSON				
10. DID THE EEO COUNSELOR INTERVIEW THE ADO, IF NAMED				
11. DID THE EEO COUNSELOR ADVISE THE ADO OF HIS/HER RIGHTS AND THE NATURE OF THE ACCUSATION				
12. IS THE EEO COUNSELOR'S REPORT TABBED IN THE COMPLAINT FILE				
13. WAS AN ATTEMPT MADE AT INFORMAL RESOLUTION				
14a. WAS THE FINAL INTERVIEW CONDUCTED WITHIN 21 DAYS AFTER THE MATTER WAS FIRST CALLED TO THE EEO COUNSELOR'S ATTENTION				
b. IF NOT, WAS THE AGGRIEVED PERSON INFORMED IN WRITING ON THE 21ST DAY OF THE RIGHT TO FILE A FORMAL COMPLAINT				
c. IS THE NOTICE TABBED IN THE COMPLAINT FILE				
15. AT THE FINAL INTERVIEW WAS THE AGGRIEVED PERSON INFORMED IN WRITING OF THE FOLLOWING				
a. THE RIGHT TO FILE A FORMAL COMPLAINT				
b. THE REQUIREMENT THAT A FORMAL COMPLAINT SPECIFICALLY DESCRIBE THE ACTS OF ALLEGED DISCRIMINATION				
c. THE REQUIREMENT THAT ONLY ISSUES DISCUSSED WITH THE EEO COUNSELOR BE CONSIDERED IN A FORMAL COMPLAINT				
SECTION B. FORMAL COMPLAINT PROCESSING (PARA 2-3 TO 2-13) *(Items 16a through 39d will be filled out by the EEO Officer only.)*				
16a. DID THE COMPLAINANT FILE AND SIGN A FORMAL WRITTEN COMPLAINT ON DA FORM 2590-R				
b. DID THE EEO OFFICER CODE DA FORM 2590-R				
17a. WAS THE COMPLAINT FILED WITH THE LOCAL EEO OFFICER				
b. IF NOT, WAS IT FORWARDED IMMEDIATELY TO THE RESPONSIBLE EEO OFFICER				
18. DID THE EEO OFFICER ACKNOWLEDGE RECEIPT OF THE COMPLAINT IN WRITING				
19. WAS THE EEO OFFICER IDENTIFIED AS AN ADO IN THE COMPLAINT				
20. WAS THE ACTIVITY COMMANDER IDENTIFIED AS AN ADO IN THE COMPLAINT				
21. WAS THE COMPLAINT ACCEPTED BY THE EEO OFFICER IN WHOLE OR IN PART				

22a. DID THE EEO OFFICER SEND WRITTEN NOTICE TO THE COMPLAINANT OF HIS/HER DECISION TO ACCEPT, REJECT, OR CANCEL THE COMPLAINT		
b. IS THE DECISION LETTER TABBED IN THE COMPLAINT FILE		
c. DOES THE DECISION SPECIFY WHICH ISSUES WERE ACCEPTED		
d. DOES THE DECISION LETTER ADVISE THE COMPLAINANT OF THE RIGHT TO APPEAL THE REJECTIONS OR CANCELLATIONS		
23a. WAS THE COMPLAINT FILE SENT TO AN APPROPRIATE USACARA REGIONAL OFFICE REQUESTING ASSIGNMENT OF AN INVESTIGATOR		
b. IS THE REQUEST LETTER TABBED IN THE COMPLAINANT FILE		
24. WAS AN INVESTIGATOR FROM USACARA ASSIGNED TO THE COMPLAINT		
25. WAS AN INVESTIGATION CONDUCTED		
26. WERE ALL ALLEGATIONS ADEQUATELY INVESTIGATED BY USACARA		
27. WAS THE ADO GIVEN FULL OPPORTUNITY TO REVIEW DOCUMENTS AND RESPOND TO ALL ALLEGATIONS MADE AGAINST HIM/HER		
28. WAS THE INVESTIGATOR UNDER THE RATING CONTROL OF ANY PARTIES TO THE COMPLAINT		
29. WAS THE ROI SENT TO THE EEO OFFICER AND THE ACTIVITY COMMANDER OR A DESIGNEE WITHIN 45 DAYS AFTER ASSIGNMENT		
30. DOES THE INVESTIGATION INCLUDE THE INVESTIGATOR'S FINDINGS AND RECOMMENDATION		
31. WAS THE ROI SENT BY THE EEO OFFICER TO THE COMPLAINANT AND REPRESENTATIVE WITH AN OFFER TO MEET AND DISCUSS AN INFORMAL ADJUSTMENT TO THE COMPLAINT		
32a. DID THE CONCERNED PARTIES AGREE ON THE ADJUSTMENT		
b. IF SO, WERE THE TERMS OF THE ADJUSTMENT FIRST COORDINATED WITH THE LABOR COUNSELOR AND CPO		
c. IF SO, WAS THE ADJUSTMENT SIGNED BY THE COMPLAINANT AND THE ACTIVITY COMMANDER		
d. DID THE ADJUSTMENT INCLUDE AN AWARD OF ATTORNEY'S FEES AND/OR COSTS		
e. IS THE ADJUSTMENT TABBED IN THE COMPLAINT FILE		
33. WAS NOTICE OF PROPOSED DISPOSITION GIVEN TO THE COMPLAINANT AND THE ADO		
34. WAS THE COMPLAINANT INFORMED OF THE RIGHT TO REQUEST A HEARING OR AN ARMY DECISION WITHOUT A HEARING		
35. WAS THE COMPLAINANT INFORMED HE/SHE HAD 15 CALENDAR DAYS IN WHICH TO REQUEST A HEARING OR AN ARMY DECISION WITHOUT A HEARING		
36. IS THE NOTICE OF PROPOSED DISPOSITION TABBED IN THE COMPLAINT FILE		
37a. DID THE COMPLAINANT RESPOND TO THE NOTICE OF PROPOSED DISPOSITION WITHIN 15 CALENDAR DAYS		
b. IF NOT, DID THE ACTIVITY COMMANDER ADOPT THE PROPOSED DISPOSITION AS THE FINAL ARMY DECISION AND NOTIFY THE COMPLAINANT ACCORDINGLY		
38a. IF THE COMPLAINANT REQUESTED AN ARMY DECISION WITHOUT A HEARING, DID THE EEO OFFICER SEND THE ORIGINAL AND ONE COPY OF THE COMPLAINT FILE TO EEOCCRA		
b. IS THE REQUEST TABBED IN THE COMPLAINT FILE		
39. IF THE COMPLAINANT REQUESTED A HEARING		
a. DID THE EEO OFFICER REQUEST ASSIGNMENT OF AN EEOC COMPLAINTS EXAMINER		
b. IS A COPY OF THE REQUEST TO EEOC TABBED IN THE COMPLAINT FILE		
c. DID THE EEO OFFICER ASK THE EEOC COMPLAINTS EXAMINER TO SEND THE COMPLETE FILE AND FOUR COPIES OF THE FINAL REPORT AND HEARING TRANSCRIPT TO EEOCCRA		
d. WAS THE HEARING RECORDED		

REMARKS (Continue on a bite-brand paper if necessary)

DATE	SIGNATURE OF EEO COUNSELOR
DATE	SIGNATURE OF EEO OFFICER
FINAL ARMY ACTION	
DATE	ACTION
SIGNATURE OF EEOCCRA REVIEWING OFFICIAL	

DA Form 5493-R, Dec 85 (Reverse)

CLASS COMPLAINT DATA SHEET For use of this form, see AR 690 600; the proponent agency is the Office of the Secretary of the Army			EEOCCRA DOCKET NO.			
NAME (Last, First, Middle Initial)	SSN	RANK/GRADE	ORGANIZATION			
INSTRUCTIONS *Items 1 through 12d will be filled out by both the EEO Counselor and the EEO Officer. Items 13a through 24 will be filled out by the EEO Officer only. When an item is not applicable to the particular EEO complaint being reviewed, the proper square will be marked with a diagonal line. All references are to paragraphs of AR 690 600, Equal Employment Opportunity Discrimination Complaints*			EEO COUNSELOR		EEO OFFICER	
			YES	NO	YES	NO
SECTION A, PRECOMPLAINT PROCESSING (PARA 3 2)						
1. DID THE CLASS AGENT CONTACT A DESIGNATED EEO COUNSELOR WITHIN 90 DAYS OF THE ALLEGED DISCRIMINATION, THE EFFECTIVE DATE OF THE PERSONNEL ACTION OR THE DATE THAT THE AGGRIEVED PERSON BECAME AWARE OR REASONABLY SHOULD HAVE BECOME AWARE OF THE DISCRIMINATORY EVENT OR PERSONNEL ACTION						
2. WAS THE CLASS AGENT ADVISED IN WRITING OF a. DISCRIMINATION COMPLAINT PROCEDURES						
b. THE CRITERIA FOR THE ACCEPTANCE OF CLASS COMPLAINTS						
c. THE RIGHT TO BE REPRESENTED THROUGHOUT THE PRECOMPLAINT AND COMPLAINT PROCESS						
d. THE RIGHT TO NOT HAVE HIS/HER NAME REVEALED ONLY DURING THE PRECOMPLAINT PROCESS						
3. WAS THE DIRECTOR OF EEOCCRA AND OTJAG NOTIFIED WITHIN 5 CALENDAR DAYS AFTER START OF THE PRECOMPLAINT PROCESS BY THE EEO OFFICER						
4a. DID THE EEO COUNSELOR DEFINE AND RECORD THE SPECIFIC DATES AND FACTS THAT FORM THE BASIS OF THE COMPLAINT						
b. WAS THIS DOCUMENT REVIEWED BY THE CLASS AGENT						
5. WAS AN ADO IDENTIFIED						
6. DID THE COUNSELOR INQUIRE INTO THE SPECIFIC INCIDENTS AND ACTIONS IDENTIFIED BY THE CLASS AGENT						
7. DID THE COUNSELOR INTERVIEW THE ADO, IF NAMED						
8. DID THE COUNSELOR ADVISE THE ADO OF HIS/HER RIGHTS AND THE NATURE OF THE ACCUSATION						
9. IS THE COUNSELOR'S REPORT TABBED IN THE COMPLAINT FILE						
10. WAS AN ATTEMPT AT INFORMAL RESOLUTION MADE						
11a. WAS A FINAL INTERVIEW CONDUCTED WITHIN 30 CALENDAR DAYS AFTER THE MATTER WAS FIRST CALLED TO THE COUNSELOR'S ATTENTION						
b. IS THE NOTICE OF FINAL INTERVIEW TABBED IN THE COMPLAINT FILE						
12. AT THE FINAL INTERVIEW, WAS THE CLASS AGENT INFORMED IN WRITING OF a. THE RIGHT TO FILE A FORMAL COMPLAINT WITHIN THE NEXT 15 CALENDAR DAYS						
b. THE REQUIREMENT THAT THE CLASS AGENT IMMEDIATELY INFORM THE EEO OFFICER IF HE/SHE RETAINS A LEGAL REPRESENTATIVE						
c. THE REQUIREMENT THAT A FORMAL COMPLAINT SPECIFICALLY DESCRIBES THE ACTS OF THE ALLEGED DISCRIMINATION						
d. THE REQUIREMENT THAT ONLY ISSUES DISCUSSED WITH THE EEO COUNSELOR BE CONSIDERED						
SECTION B. FORMAL COMPLAINT PROCESSING (PARA 3 3 TO 3 11) *(Items 13a through 24 will be filled out by the EEO Officer only)*						
13a. DID THE CLASS AGENT FILE A FORMAL CLASS COMPLAINT ON DA FORM 2590 R						
b. IS THE CLASS COMPLAINT SIGNED BY THE AGENT AND HIS/HER REPRESENTATIVE, IF ANY						
c. IS THE CLASS COMPLAINT TABBED IN THE COMPLAINT FILE						
14. WAS THE COMPLAINT FILED WITHIN 15 CALENDAR DAYS AFTER THE CLASS AGENT RECEIVED NOTICE OF THE FINAL INTERVIEW						
15. DOES THE COMPLAINT SPECIFICALLY DESCRIBE IN DETAIL THE POLICY OR PRACTICE THAT GAVE RISE TO THE COMPLAINT AND THE RESULTING PERSONNEL ACTION OR MATTER THAT HARMED THE AGENT						
16. IF THE CLASS AGENT HAS A REPRESENTATIVE, IS THE DESIGNATION IN WRITING AND MADE PART OF THE COMPLAINT FILE						

17. WAS THE COMPLAINT SENT TO EEOC FOR RECOMMENDATIONS ON ACCEPTANCE OR REJECTION WITHIN 10 DAYS AFTER RECEIPT		
18a. WAS THE COMPLAINT ACCEPTED OR REJECTED WITHIN 10 DAYS AFTER RECEIPT OF EEOC'S RECOMMENDED ACCEPTANCE OR REJECTION		
b. IS THE ACCEPTANCE/REJECTION TABBED IN THE COMPLAINT FILE		
19. DID THE EEO OFFICER MAKE A REASONABLE EFFORT TO NOTIFY ALL CLASS MEMBERS OF THE EXISTENCE OF A CLASS COMPLAINT WITHIN 15 DAYS AFTER ITS ACCEPTANCE		
20. DID THE NOTICE TO CLASS MEMBERS INFORM THEM OF THEIR RIGHT TO REMOVE THEMSELVES FROM THE CLASS WITHIN 30 DAYS AFTER RECEIPT OF NOTICE		
21a. WAS A LABOR COUNSELOR DESIGNATED BY THE ACTIVITY COMMANDER		
b. IS THE APPOINTMENT TABBED IN THE COMPLAINT FILE		
22. WAS THERE ANY ATTEMPT AT INFORMAL ADJUSTMENT OR SETTLEMENT		
23a. WAS THERE AN INFORMAL ADJUSTMENT REACHED BETWEEN THE PARTIES		
b. IF SO, WERE THE TERMS OF THE RESOLUTION PUT IN WRITING AND SIGNED BY THE PARTIES		
c. DOES THE RESOLUTION INCLUDE ANY CORRECTIVE ACTION AGREED UPON		
d. HAS A COPY OF THE RESOLUTION BEEN GIVEN TO THE AGENT OF THE PARTIES		
e. WAS NOTICE OF THE RESOLUTION GIVEN TO ALL CLASS MEMBERS IN THE SAME WAY AS THE NOTIFICATION OF ACCEPTANCE OF THE CLASS COMPLAINT		
f. DOES THE NOTICE OF THE CLASS CONTAIN THE TERMS OF THE CORRECTIVE ACTION, IF ANY		
g. WERE THE TERMS OF THE ADJUSTMENT FIRST COORDINATED WITH THE EEO OFFICER, LABOR COUNSELOR, AND THE CPO		
h. DID THE ADJUSTMENT INCLUDE AN AWARD OF ATTORNEY'S FEES AND/OR COSTS		
i. IS THE ADJUSTMENT AND CLASS NOTICE TABBED IN THE COMPLAINT FILE		
24. WAS A HEARING CONDUCTED BY THE EEOC HEARING EXAMINER		

REMARKS *(Continue on white bond paper if necessary.)*

DATE	SIGNATURE OF EEO COUNSELOR
DATE	SIGNATURE OF EEO OFFICER
FINAL ARMY ACTION	
DATE	ACTION
SIGNATURE OF EEOCCRA REVIEWING OFFICIAL	

CHRONOLOGY OF INDIVIDUAL EEO COMPLAINT

For use of this form, see AR 690 600; the proponent agency is the Office of the Secretary of the Army.

EEOCCRA DOCKET NO.

NAME (Last, First, Middle Initial)	SSN	RANK/GRADE	ORGANIZATION

INSTRUCTIONS

The days listed in parentheses are administrative suspense goals established by EEOC or the Army. Failure to meet any of the listed suspenses should be explained in the remarks section of this form or on a continuation sheet, if necessary. All days referred to in this form are calendar days. In computing days between dates, disregard the first day and count the last day. The actual number of days in each month will be counted.

ACTIONS	DATE 19____	CUMULATIVE ELAPSED DAYS
1. DATE OF ALLEGED DISCRIMINATORY ACTION		
2. DATE COUNSELOR CONTACTED (30 DAYS)		
3. DATE OF 21 DAY LETTER (21 DAYS)		
4. DATE OF COUNSELOR'S FINAL INTERVIEW		
5. DATE OF FORMAL COMPLAINT (15 DAYS)		
6. DATE FORMAL COMPLAINT RECEIVED		
7. DATE COMPLAINT ACCEPTED/REJECTED (5 DAYS)		
8. DATE INVESTIGATOR REQUESTED (3 DAYS)		
9. DATE INVESTIGATOR ASSIGNED		
10. DATE(S) OF INVESTIGATION		
11. DATE ACTIVITY RECEIVED REPORT OF INVESTIGATION (ROI)		
12. DATE COMPLAINANT RECEIVED ROI (5 DAYS)		
13. DATE ATTEMPT AT INFORMAL ADJUSTMENT (15 DAYS)		
14. DATE OF PROPOSED DISPOSITION (20 DAYS AFTER RECEIPT OF ROI)		
15. DATE COMPLAINANT REQUESTED HEARING OR DECISION WITHOUT HEARING (15 DAYS)		
16. DATE COMPLAINTS EXAMINER REQUESTED		
17. DATE(S) OF HEARING		
18. DATE REPORT RECEIVED BY ARMY		
19. DATE OF FINAL ARMY DECISION		
20. TOTAL PROCESSING DAYS FROM DATE COMPLAINT WAS FILED		
21. DATE APPEALED TO EEOC OFFICE OF REVIEW AND APPEALS		
22. DATE EEOC REQUESTED RECORDS		
23. DATE DA FORWARDED RECORDS TO EEOC		
24. DATE DECISION BY EEOC OFFICE OF REVIEW AND APPEALS		
25. LITIGATION - DATE SUIT FILED		
26. DATE COURT DECISION		

REMARKS *(Continue on white bond paper if necessary)*

DATE	SIGNATURE OF EEO OFFICER
DATE	SIGNATURE OF EEOCCRA OFFICIAL COMPLETING CHRONOLOGY SHEET

DA FORM 5495-R, Dec 85

CHRONOLOGY OF CLASS EEO COMPLAINT

For use of the form, see AR 690 600; the proponent agency is the Office of the Secretary of the Army.

EEOCCRA DOCKET NO

NAME (Last, First, Middle Initial)	SSN	RANK/GRADE	ORGANIZATION

INSTRUCTIONS

The days listed in parentheses are administrative suspense goals established by EEOC or the Army. Failure to meet any of the listed suspenses should be explained in the remarks section of this form or on a continuation sheet, if necessary. All days referred to in this form are calendar days. In computing days between dates, disregard the first day and count the last day. The actual number of days in each month will be counted.

ACTIONS	DATE 19____	CUMULATIVE ELAPSED DAYS
1. DATE OF ALLEGED OFFENSE/PERSONNEL ACTION		
2. DATE COUNSELOR CONTACTED (90 DAYS)		
3. DATE OF FINAL INTERVIEW (30 DAYS)		
4. DATE OF FORMAL COMPLAINT (15 DAYS)		
5. DATE COMPLAINT FORWARDED TO EEOC (10 DAYS)		
6. DATE EEOC COMPLAINTS EXAMINER NOTIFIES ARMY OF RECOMMENDED ACCEPTANCE OR REJECTION OF CLASS COMPLAINT		
7. DATE OF ARMY ACCEPTANCE OR REJECTION OF CLASS COMPLAINT (10 DAYS)		
8. DATE ARMY NOTIFIES CLASS MEMBERS (15 DAYS)		
9. DATE OF EEOC HEARING		
10. DATE EEOC COMPLAINTS EXAMINER NOTIFIES ARMY OF FINDINGS AND RECOMMENDATION ON CLASS ISSUES		
11. DATE FINAL ARMY DECISION (30 DAYS)		
12. TOTAL PROCESSING DAYS FROM DATE CLASS COMPLAINT WAS FILED		
13. DATE OF APPEAL TO EEOC OFFICE OF REVIEW AND APPEALS		
14. DATE EEOC REQUEST RECORDS		
15. DATE ARMY FORWARDED RECORDS TO EEOC		
16. DATE DECISION BY EEOC OFFICE OF REVIEW AND APPEALS		
17. LITIGATION: DATE SUIT FILED		
18. DATE COURT DECISION		

REMARKS *(Continue on white bond paper if necessary.)*

DATE	SIGNATURE OF EEO OFFICER
DATE	SIGNATURE OF EEOCCRA OFFICIAL COMPLETING CHRONOLOGY SHEET

DA FORM 5496-R, Dec 85

DISPOSITON OF COMPLAINT OF DISCRIMINATION

For use of this form, see AR 690-600; the proponent agency is the Office of the Secretary of the Army

REQUIREMENT CONTROL SYMBOL 0288-EEO-SA

NAME OF COMPLAINANT (Last, First, Middle Initial) COMPLAINANT'S SSN	ACTIVITY	EEOCCRA DOCKET NO.
COMPLAINANT'S JOB TITLE AND GRADE		DATE COMPLAINT FILED

BASIS OF DISCRIMINATION COMPLAINT
(Check appropriate box)

RACE	COLOR	RELIGION	SEX *(Male)* *(Female)*		HANDICAP *(Mental)* *(Physical)*		AGE (STATE)	NATIONAL ORIGIN (STATE)	REPRISAL

ALLEGATION(S) OF DISCRIMINATION (SUMMARIZE) *(Continue on white bond paper if necessary.)*

IF AN INVESTIGATION WAS CONDUCTED, DID THE INVESTIGATOR FIND DISCRIMINATION
/ / YES / / NO / / NO DISCRIMINATION BUT RECOMMENDED CORRECTIVE ACTION

CONCERNING THE USACARA RECOMMENDATION, DID THE COMMANDER, IN THE PROPOSED DISPOSITION (CHECK ONE)
/ / REJECT IT / / ACCEPT IT / / MODIFY IT

DID THE COMPLAINANT (CHECK ONE)
/ / FAIL TO RESPOND TO THE NOTICE OF PROPOSED DISPOSITION
/ / REQUEST DECISION BY THE DIRECTOR OF EEO WITHOUT HEARING
/ / REQUEST A HEARING AND SUBSEQUENT REVIEW AND DECISION BY THE DIRECTOR OF EEO

IF NO HEARING WAS HELD, OR THE HEARING WAS NOT COMPLETED, DID THE AGENCY MAKE A DECISION ON THE MERITS (CHECK ONE) / / YES / / NO / / PROPOSED DISPOSITION ADOPTED AS THE AGENCY FINAL DECISION

WHERE DISCRIMINATION IS FOUND, REPORT REASONS FOR TAKING OR NOT TAKING DISCIPLINARY ACTION

DESCRIPTION OF ANY DISCIPLINARY ACTION TAKEN AS A RESULT OF THE COMPLAINT (CHECK APPROPRIATE BOXES)
/ / SEPARATION / / INVOLUNTARY DOWNGRADE / / REASSIGNMENT TO NON SUPERVISORY POSITION
/ / SUSPENSION / / LATERAL REASSIGNMENT / / WRITTEN REPRIMAND / / TRAINING
/ / ORAL REPRIMAND / / COUNSELING / / NONE / / OTHER (SPECIFY)

DESCRIPTION OF ANY REMEDIAL OR CORRECTIVE ACTION TAKEN INCLUDING THOSE COMPLAINTS WITHDRAWN BY THE COMPLAINANT AND THOSE CANCELLED FOR FAILURE TO PROSECUTE

NATURE OF CLOSING ACTION
(Check one)

REJECTION (UNTIMELY)		REJECTION (OUT SIDE PURVIEW)		REJECTION (IDENTICAL TO PREVIOUS COMPLAINT)		SETTLEMENT	
WITHDRAWAL		DECISION ON MERITS		CANCELLATION (FAILURE TO PROSECUTE)		CANCELLATION — MSPB/ LITIGATION DECISION	

TOTAL PROCESSING DAYS (FROM DATE OF FORMAL COMPLAINT TO CLOSURE)

NAME, TITLE AND TELEPHONE NUMBER OF AGENCY OFFICIAL PREPARING REPORT

INDICATE AMOUNT OF MONETARY RELIEF PROVIDED

BACKPAY (RETROACTIVE HIRE) $	BACKPAY (RETROACTIVE PROMOTION $	BACKPAY (RESCIND DISCIPLINARY ACTION) $
BACKPAY (REINSTATEMENT) $	BACKPAY (OTHER) $	TOTAL ATTORNEY FEES AND COSTS AWARDED $

REMARKS *(Continue on white bond paper if necessary.)*

SIGNATURE OF EEO OFFICER

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